

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

March 16, 2006

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, March 16, 2006, at 1:42 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Harold Warner Jr., Chair; Darrell Downing, Vice-Chair; John W. McKay, Jr.; Bill Johnson (in @ 1:44); Bob Aldrich; M.S. Mitchell; Don Anderson (out @ 5:00); Denise Sherman (out @ 5:00); Bud Hentzen; Ronald Marnell; Hoyt Hillman and Morris K. Dunlap. Elizabeth Bishop and Michael Gisick were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Scott Dunakey, Associate Planner; David Barber, Advanced Plans Manager and Rose Simmering, Recording Secretary.

1. Approval of February 16, 2006, and March 2, 2006 meeting minutes.

MOTION: February 16 and March 2 meeting minutes be approved as written.

HENTZEN moved, **ANDERSON** seconded the motion, and it carried (11-0).

❖ **SUBDIVISION ITEMS**

2. Consideration of Subdivision Committee recommendations from the meeting of March 9, 2006.

2-1. SUB2006-02: Final Plat – USD 385 ADDITION, located north of Central and on the west side of 159th Street East.

NOTE: This is an unplatted site located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family residential and will be converted to SF-5, Single-Family Residential upon annexation.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential.
- B. Municipal services are available to serve the site. Unless petitions for extensions are provided, in lieu of assessment fees are needed for sewer lateral and water main.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **City Engineering has approved the drainage plan.**
- D. Additional right of way is required in the area of KTA bridge and fill. **The applicant shall meet with County Engineering to determine the width of right-of-way needed for future bridge widening.**

Additional right-of-way has been platted as requested.
- E. **County Public Works** recommends Wichita and Andover resolve which city will annex and maintain 159th St. E.
- F. **Traffic Engineering** has requested right/left turn lanes on 159th for the north entrance.
- G. **City Engineering** requests a petition for the paving of the north half of Sharon Lane.
- H. **City/County Engineering** needs to comment on the access controls. The plat proposes two openings along 159th St. East Access **controls are approved.**
- I. Since drainage will be directed onto the Kansas Turnpike, a letter shall be provided from KTA indicating their agreement to accept such drainage.
- J. Provisions shall be made for ownership and maintenance of the proposed reserve. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- K. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.

- M. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To defer at the applicants request.

MCKAY moved, **MITCHELL** seconded the motion, and it carried (11-0).

- 2-2. **SUB 2006-14: One-Step Final Plat -- ACT PROPERTIES LLC ADDITION**, located on the southwest corner of Oliver and 37th Street North.

NOTE: This is an unplatted site located within the City. The site is located within the 100-year floodplain.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer lateral and fees in lieu of assessment for sewer main, which may be included in the lateral petition.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **All areas within the floodway should be located within a Reserve. A minimum pad elevation should be shown on the face of the plat. Applicant shall submit a LOMA or LOMR to FEMA to remove the lot from the floodplain, which shall be submitted prior to City Council consideration.**
- D. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- E. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- F. **Traffic Engineering** needs to comment on the access controls. The plat proposes one opening along both Oliver and 37th St. North. **A restrictive covenant or agreement shall be submitted that permits future cross-lot access along 37th St. North with the abutting property owners to the west.**

- G. The Subdivision Regulations require a 75-foot half street right-of-way at the intersection of arterials. The applicant has platted a triangular corner clip with a 60-foot right-of-way. **Traffic Engineering has requested a 75-ft street right-of-way along 37th St. North at the intersection.**
- H. The MAPC signature block needs to reference "Harold L. Warner, Jr., Chair".
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. **GIS** requests that the streets be relabeled as Oliver Ave and 37th St N.
- K. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- S. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Approve subject to staff recommendation.

DOWNING moved, **HILLMAN** seconded the motion, and it carried (12-0)

- 2-3. **SUB 2005-119: Final Plat -- NORTHCREST ESTATES ADDITION**, located east of Meridian and South of 53rd Street North.

NOTE: This unplatted site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family Residential and will be converted to SF-5, Single-Family Residential upon annexation.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of sanitary sewer (main and laterals) and City water to serve the lots being platted. **Water and Sewer Department** has advised that the construction of the north area sewer main is anticipated within the next year.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The minimum pad elevations for each lot adjacent to the existing drainage ditches and Reserve A shall be included on the plat. The drainage plan shows the**

existing ditch as Reserve D, however it is not included on the plat. The City is requesting Reserve D to be shown on the plat as a drainage dedication. The drainage easement between lots 7-12 and 38-40, Block A should be widened to a 20-ft drainage easement. The drainage easement for the stormwater system between lots 29 & 30 and lots 48 & 49 are not shown.

- E. The Applicant shall guarantee the paving of 51st St. North adjoining the plat.
- F. The Applicant shall guarantee the paving of the proposed streets.
- G. The parking easements shall be referenced in the plat's text specifying that the easements are granted for residential parking only and that no obstructions shall be constructed or placed within the easements.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- K. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 32-foot or 58-ft street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- L. **GIS** needs to comment on the plat's street names. **The street names need to include abbreviations for the suffixes. Athenian should be revised to Athenian Cir.**
- M. **County Engineering** has requested that the plat's text should include language that protects the public from cost of reconstructing improvements in Reserves D and E.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- W. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- X. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Approve subject to staff recommendation.

DOWNING moved, **HILLMAN** seconded the motion, and it carried (12-0)

2-4. DR2006-03: Street Name Change From Jardine Drive to Opportunity Drive.

APPLICANT: John Fowler, Boys and Girls Club and Cessna Aircraft Company, Dept. 168, P.O. Box 7704, Wichita, KS 67277-7704

LOCATION: North side of 21st St. North, East of Hydraulic.

LEGAL DESCRIPTION: Jardine Drive, as platted in the 21st Street Kids and Family Empowerment Addition.

REASON FOR REQUEST: Development of the 21st Street Kids and Family Empowerment Zone; construction of new facilities (Boys and Girls Club)

CURRENT ZONING: PUD, Planned Unit Development

MOTION: Approve subject to staff recommendation.

DOWNING moved, **HILLMAN** seconded the motion, and it carried (12-0)

❖ **PUBLIC HEARINGS – VACATION ITEMS**

3-1. VAC 2006-06: Request to Vacate the Restriction of Uses in a Platted Reserve.

OWNER/APPLICANT: Willowbend Homeowners Association c/o Todd Duhnke
Richard & Marie Mareda (contract purchasers)

LEGAL DESCRIPTION: Vacate the east 10-feet of platted Reserve E, that abuts the west lot line of Lot 1, Block 3, all in the Willowbend Third Addition & the plat text's restriction of uses in regards to uses allowed in Reserve E, Willowbend Third Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located northwest of the 37th Street North – Rock Road intersection, more specifically northwest of the Oakmont – Sweet Bay Streets intersection (WCC #11)

REASON FOR REQUEST: Additional room to build a single-family residence

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned "SF-5" Single-family Residential.

The applicant is requesting consideration for the vacation of the east 10-feet of the platted Reserve E that abuts the west side yard lot line of Lot 1, Block 3, Willowbend Third Addition and the restriction of uses in the plat's text for the platted reserve to allow additional space to construct a single-family residence. The uses that Reserve E has been set aside for include public utilities, drainage and open spaces. There are no manholes, sewer or water lines in the reserve. Storm Water has no objection to the vacation, which will leave a 23.17-feet of the reserve on the south end and 11.87-feet of the reserve on the north end. Westar has equipment in the north end of the reserve and will require dedication or retention of the north 10-feet of the reserve. Per the plat's text the homeowner's association owns the reserve and is responsible for its maintenance. The president of the Willowbend Homeowners Association has indicated that the homeowners association has agreed to sell the described portion of the reserve to the contract purchasers. The Willowbend Third Addition was recorded with the Register of Deeds November 3, 1986.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the a portion of the platted Reserve E and the uses of that portion of the platted Reserve E as described in the legal description to allow a portion of the platted reserve to revert into private property and to allow "SF-5" uses in that portion of the vacated reserve.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time February 23, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted reserve and the uses allowed in vacated portion of the platted reserve and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted reserve and the uses allowed in the vacated portion of the platted reserve described in the petition should be approved subject to the following conditions:
- (1) Vacate the 10-foot wide portion of the platted Reserve E that abuts and runs parallel to the west side yard lot line of Lot 1, Block 3, the Willowbend Third Addition, with the exception of the north 10-feet of the reserve, which needs to be retained as an easement for Westar equipment.
 - (2) Vacate the use restrictions as listed in the approved vacated portion of the platted Reserve E to allow only "SF-5" zoning district uses and utilities confined to easements.
 - (3) Provide Planning Staff with a restrictive covenant binding and tying the vacated portion of Reserve E to Lot 1, Block 3, all in the Willowbend Addition, to be sent with the Vacation Order to be recorded with the Register of Deeds.
 - (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (5) All improvements shall be according to City Standards.
 - (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

- (1) Vacate the 10-foot wide portion of the platted Reserve E that abuts and runs parallel to the west side yard lot line of Lot 1, Block 3, the Willowbend Third Addition, with the exception of the north 10-feet of the reserve, which needs to be retained as an easement for Westar equipment.
- (2) Vacate the use restrictions as listed in the approved vacated portion of the platted Reserve E to allow only "SF-5" zoning district uses and utilities confined to easements.
- (3) Provide Planning Staff with a restrictive covenant binding and tying the vacated portion of Reserve E to Lot 1, Block 3, all in the Willowbend Addition, to be sent with the Vacation Order to be recorded with the Register of Deeds.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicant's expense.
- (5) All improvements shall be according to City Standards.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve as recommended.

MARNELL moved, **MCKAY** seconded the motion, and it carried (12-0).

- 3-2. **VAC 2006-07: Request to Vacate a Portion of a Platted Right-of-way**, generally located north of Douglas Avenue and between Market and Broadway Avenue.

<u>APPLICANTS/AGENT:</u>	DGL Investments Poe & Associates
<u>LEGAL DESCRIPTION:</u>	Generally described as the platted 20-foot wide alley ROW located between Lots 120 & 122, all dedicated in the Greiffenstein's Original Town Addition, Wichita, Sedgwick County, Kansas
<u>LOCATION:</u>	Generally located north of Douglas Avenue, between Market and Broadway Avenues (WCC #VI)
<u>REASON FOR REQUEST:</u>	Build a parking garage
<u>CURRENT ZONING:</u>	The site is a platted, developed alley, all abutting and adjacent properties are zoned "CBD" Central Business District

The applicant is requesting vacation of the approximately 130-foot long (x) 20-foot wide portion of the platted alley as described. This portion of the alley is the south most portion of a platted alley that runs from 1st Street to Douglas Avenue, north to south. This

portion of the platted alley also lies below an east –west alley that provides access to Market and Broadway Avenues, thus vacating this described portion of the platted north-south alley will not result in a dead end alley. There are no utilities, manholes, sewer or water lines in this portion of the alley. There is underground storm water drainage in the alley. The Greiffenstein's Original Old Town Addition was recorded with the Register of Deeds October 1, 1870.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted alley ROW, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time February 23, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted alley ROW and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted alley ROW described in the petition should be approved with conditions:
- (1) It appears that the applicant has failed to secure the abutting eastern property owner's signature on the application form and the petition. Prior to the case going to MAPC, these original signatures must be provided. Upon receiving these signatures Planning will forward this to the MAPC for the public hearing.
 - (2) Retain the alley as an easement until Storm Water and all other utilities have provided comments on the proposed vacation. Provide all necessary plans for review and approval and any additional easements.
 - (3) The bricks in the alley will be returned to the city.
 - (4) City Fire will determine the minimum turning radius. That minimum turning radius will be applied to the southeast corner of the intersection of the north – south alley and the east – west alley, which abuts the existing parking lot owned by the Kress Energy Center LLC. This corner represents the only opportunity to expand the existing turning radius, if needed, for emergency and commercial vehicles.
 - (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants, including any needed storm water relocation.
 - (6) All improvements shall be according to City Standards. If the drive onto Douglas Avenue is to close, provide staff with a guarantee for the closure of the alley return on to Douglas Avenue and for continuation of the curb and reconstruction of the sidewalk. If the drive is to remain open, as a private drive, it must be constructed to City Standards and at the applicant's expense. Provided staff with a guarantee for construction of the drive as a private drive and the continuation of the sidewalk.
 - (7) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) It appears that the applicant has failed to secure the abutting eastern property owner's signature on the application form and the petition. Prior to the case going to MAPC, these original signatures must be provided. Upon receiving these signatures Planning will forward this to the MAPC for the public hearing.
- (2) Retain the alley as an easement until Storm Water and all other utilities have provided comments on the proposed vacation. Provide all necessary plans for review and approval and any additional easements.
- (3) The bricks in the alley will be returned to the city.
- (4) City Fire will determine the minimum turning radius. That minimum turning radius will be applied to the southeast corner of the intersection of the north – south alley and the east – west alley, which abuts the existing parking lot owned by the Kress Energy Center LLC. This corner represents the only opportunity to expand the existing turning radius, if needed, for emergency and commercial vehicles.
- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants, including any needed storm water relocation.
- (6) All improvements shall be according to City Standards and at the applicant's expense. If the drive onto Douglas Avenue is to close, provide staff with a guarantee for the closure of the alley return on to Douglas Avenue and for continuation of the

curb and reconstruction of the sidewalk. If the drive is to remain open, as a private drive, it must be constructed to City Standards and at the applicant's expense. Provided staff with a guarantee for construction of the drive as a private drive and the continuation of the sidewalk.

- (7) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: Defer until the next meeting.

MARNELL moved, **MCKAY** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS**

4. **Case No.: CON2006-04** – Ernest Doyan / Frank's Automotive Request Conditional Use for vehicle and equipment sales, outdoor on property zoned "LC" Limited Commercial on property described as;

The South 120 feet of Lot 1, S.H. Sampson Addition, Sedgwick County, Kansas. Generally located on the northeast corner of I-235 and Central.

MAPC Deferred March 2, 2006

BACKGROUND: The applicant is requesting a Conditional Use to allow outdoor vehicle and equipment sales on the south 120-feet of Lot 1, S.H. Sampson Addition, which is zoned "LC" Limited Commercial. The site is located at the northwest corner of Central Avenue and Hoover Street and is currently developed with a five-bay door garage/office, used for limited car and light truck repair. The applicant proposes to retain the site's limited vehicle repair garage, which is permitted by right, and sell pre-owned cars and light trucks. Per the Unified Zoning Code (UZC), outdoor vehicle and equipment sales may be permitted with a Conditional Use in the "LC" zoning district.

Development east and northeast of the site, across Hoover Street, include a small commercial strip containing a drinking and eating establishment (DER) and retail (built in 1969), a small freestanding restaurant (built in 1969) and single-family residences (built in the early 1950s). The nonresidential development is zoned "LC" and the site containing the houses are zoned "TF-3" Duplex Residential and "SF-5" Single-family Residential. Abutting the north side of the subject site there is a vacant self-serving car wash (BZA 26-81, use exception) zoned "LC". North of the car wash there is single-family residential development (built in the early 1950s) zoned "SF-5" and "TF-3". South of the site, across Central Avenue, there is a limited vehicle repair garage (built in 1957) and a Goodwill store, both are zoned "LC". Abutting the west side of the site is the Central – I-235 interchange. This portion of Central, from West Street to the Central - I-235 interchange, is almost striped out with "LC" zoning supporting a mixture of small free standing retail, small retail strips, a few offices, limited vehicle repair garages and some DERs and restaurants. All of these nonresidential developments are "local commercial" type of uses. There are no other car sale lots on this portion of Central. The nearest car sales lots appear to be the Saturn dealership located at Central and Tyler Road and another two dealerships located on West between Douglas Avenue and 3rd Street. These car sales lots are all between 1½-miles to almost 2-miles away from the subject site.

The applicant's site plan shows the existing garage/office (built in 1971), the two existing drives onto Central and the one onto Hoover, an existing pole sign with proposed additional lighting, the parking and display areas with proposed pipe railing around the display area (along the site's Central frontage) and, per the applicant's calculations, approximately 1,540-square feet of landscaping. A unique feature of the site is that the legal description of the application area cuts through the existing garage/office building, leaving approximately the northern half of it out of the application area. Part of the customer/employee parking is in that northern portion and thus located off of the site. As shown on the site plan, all of the proposed display area for vehicle sales is confined to the application area. If approved, the applicant needs to provide a revised site plan giving more detail including the above mentioned 'split' building, separating the square footage for the garage area and the office area, show that the site can meet the parking requirements for the garage and car sales business, show onsite vehicular circulation, state what plants will be planted and how many and what size with the intent being that their size meets the minimum requirement of the "Landscape Ordinance", state how they will be cared for, show any other proposed lighting, and solid screening around any trash receptacles.

CASE HISTORY: The site is platted as the Lot 1, the S.H. Sampson Addition, which was recorded with the Register of Deeds November 11, 1967. The site is described as the south 120-feet of Lot 1, the S.H. Sampson Addition. The northern remaining portion of Lot 1, the S.H. Sampson Addition has a vacant self-service car wash, per the conditions of BZA27-81. The site was annexed into the city sometime between 1951–1960.

- At their March 2, 2006 meeting the MAPC asked the applicant if a two-week deferral would be acceptable. The deferral period would allow the applicant and the Traffic Engineer to discuss the closing of the site's west drive (staff) as opposed to closing the east drive (applicant). The applicant agreed to the two-week deferral.
- At their March 6, 2006 meeting DAB VI recommended approval (5-3) of the requested Conditional Use, per Staff's recommendation, with three additional conditions suggested by the applicant (see attaché January 21, 2006 letter), those being:
 - (A) **No vehicles shall be displayed north of the Central Avenue street wall line.**
 - (B) **No flashing or moving signs.**
 - (C) **The total square footage of pole signage will not increase.**

The DAB also: **(d) amended the applicant's proposed condition that no more than 15 sale vehicles will be allowed on the site by reducing it to no more than 11 sale vehicles on the site** and **(e) adding the condition that any vehicles waiting for repair (by the current and still to be used repair garage) off the site (on the north, abutting car wash site) will have solid screening around them.**

NOTE: All of the underlined should be considered by the MAPC in their recommendation as conditions of the Conditional Use.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC"	Vacant self-service car wash
SOUTH:	"LC"	Car repair garage, limited, Goodwill store
EAST:	"LC"	Small strip retail, free-standing restaurant,
	"TF-3"	single-family residences
WEST:	Public right-of-way	Central Avenue – I-235 interchange

PUBLIC SERVICES: The subject property has access to Central Avenue, a five-lane arterial street and Hoover Street, a paved two-lane residential street. The west side of the site abuts the Central – I-235 interchange. I-235 is a four-lane freeway. Current traffic volumes at this portion of Central are approximately 24,137 vehicles per day. The "2030 Transportation Plan" estimates that traffic volumes at this location will increase to approximately 45,000-46,000 vehicles per day. The "2030 Transportation Plan" indicates improvements for the Central – I-235 interchange and a recent (February 2006) KDOT concept study reaffirms this interchange as a candidate for improvements. Municipal water and sewer services and all other utilities are currently provided to the subject property.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide of the Comprehensive Plan" identifies this site as appropriate for "local commercial" types of use. Medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants, personal service facilities and on a limited basis mini-storage warehouse and light manufacturing are examples of "local commercial" uses. All of these uses would be on a scale that would not have a significant regional draw.

The "Commercial Locational Guidelines of the Comprehensive Plan" recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The site has direct access onto Central Avenue, a five-lane arterial. The conditions attached to a Conditional Use can address site design issues. The "Commercial Locational Guidelines" also recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg Avenue and Broadway Avenue, or other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. As mentioned the closest car sales lots are approximately 1½ miles to almost 2-miles away from the subject site.

In the past the MAPC has identified smaller car sales lots as being more of a local commercial establishment in their nature, as opposed to the cluster of larger car sales lots located primarily along Kellogg Avenue and Broadway Avenue, which are more regional in their clential draw. The MAPC has also recommended that buildings that had in the past been used for automobile activities, such as vehicle repair garages, be considered as possible sites for car sales. The applicant's proposal to continue to use the site/building for limited auto repair, while adding the car sales on the site conforms with what the MAPC has recommended for this type of site/use in the past.

RECOMMENDATION: While the site does not entirely meet the "Comprehensive Plan's" criteria of locating car lots in areas where they are already clustered, it does conform with the MAPC's past recommendations of locating smaller car sales lots within sites that had previously been used or continue to be used for auto related businesses. In this case the applicant proposes to retain the permitted by right limited vehicle repair garage, while operating a car sales lot on the same site. The proposed Conditional Use could bring improvements to the site that will include additional landscaping of the site and conforming to the current access control standards. Introduction of a car sales lot into an area can lead to other car sales lots and this is an issue that must be addressed on a site-by-site basis with a Conditional Use application. In this case the subject site is located next to the I-235 – Central interchange with "LC" zoned small local retail development, including another vehicle limited repair garage, on two of its sides. The existing "LC" zoned vacant car wash on its north side is potentially a more intense use then the car sales lot, but provides distance between the car sales lot and the single-family residences north of the site. The subject site and the other vehicle limited repair garage located south of the site, across Central, have unique locations for this portion of Central, in their immediate proximity to the I-235 – Central interchange and that they have other existing "LC" zoned development between them and the nearest residential development. There appears to be no other sites along this portion of Central with these site characteristics, including two other vehicle limited repair garages located west of the subject site and the vehicle limited repair garage located south of the subject site. Both of these other two vehicle limited repair garages are on the west side and abutting the I-235 – Central interchange, but each is either directly adjacent to or abutting "SF-5" zoned single-family residences.

Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED. This recommendation is based on the principle that staff would be only supportive of sites that shared the site characteristics of this site including that they are not abutting or directly adjacent to residential zoning. Recommended conditions of approval include:

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of cars and light trucks, as long as it continues to operate as a vehicle repair, limited garage. No sale or rental of trailers, motorcycles or scooters, vehicles or trucks larger than pick ups are permitted.
2. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.

3. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the selling of any cars or light trucks, within six months of approval by the MAPC or the City Council. The site plan will include, but not be limited to, internal circulation that will remain open at all time and confirms the site meets the parking standards for both the approved car sales lot and the existing vehicle repair, limited garage. The site will be developed according to the revised site plan.
4. The applicant shall install and maintain landscaping in accordance with the landscape plan submitted with the revised site plan, within the nearest planting season and approval by the MAPC or the City Council. The plan shall include what plants will be planted and how many and what size the plants are, with the intent being that their size meets the minimum requirement of the "Landscape Ordinance". The landscape plan will also state how the plants will be cared for and that they will be replaced if they die, within the nearest planting season. The landscaping plan will be reviewed and approved by the Planning Director, prior to issuance of any permits/selling of cars and light trucks.
5. A parking barrier, such as a heavy rail type, shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.
6. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons. All other signage will be per the "LC" zoning district.
7. There shall be no use of elevated platforms for the display of vehicles. All vehicles for sale or for repair must be on a concrete, asphalt or an approved all weather surface.
8. No outdoor amplification system shall be permitted.
9. No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use. Outside storage of parts, including tires, associated with the car repair, limited, operation shall be within a 6-foot solid screened area.
10. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted. Outside pole lighting shall be no taller than 14-feet and directed onto the site and away from the residential development north and east of the site.
11. All vehicles associated with the car sales lot shall be located in front of the existing garage/office building located on the south 120-feet of Lot 1, S.H. Sampson Addition; the site. All customer parking will be confined to the south 120-feet of Lot 1, S.H. Sampson Addition; the site
12. All trash receptacles, oil containers or any similar type of receptacles for new or used petroleum products or trash shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.
13. Dedication by separate instrument of access control closing all but one entrance onto Central Avenue. **The Traffic Engineer has agreed that the east drive will be closed.** The applicant shall guarantee the closure of all but the approved entrances according to City standards.
14. All improvements shall be completed within one year of the approval of the Conditional Use by the MAPC or the City Council. No selling of cars shall be allowed until all permits have been acquired and all improvements to the site have been made.
15. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
16. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the neighborhood is predominately "LC" zoned local retail along both sides of Central Avenue. There are other car repair shops in the immediate area. There are no other car sales lots in the immediate area, the nearest being approximately 1½ miles to almost 2-miles away from the subject site.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial. The property is suitable for the commercial uses to which it has been restricted, including its current use as vehicle repair, limited.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Vehicle sales on a site this size when developed with the Conditional Use, will have a minimum of negative effect on the area and at best improve the property, with the application of additional access control, landscaping, screening and the other conditions on the site.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic

patterns, surrounding land uses, and utilities can support these activities. A Conditional Use for a car sales lot on this site does not entirely meet the "Commercial Locational" criteria, but it does conform to the MAPC's past recommendation in regards to locating small car sales lots on sites that had previously been used or are still being used for car related businesses. There is no adopted neighborhood plan that would specifically discourage a car sales lot on this site. The Conditional Use conditions do represent an opportunity for encouraging investment and upgrading the property while allowing the applicant the opportunity to expand his business opportunities.

5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate. Additional access control onto Central Avenue is an improvement to the area.

ALDRICH I went to the DAB VI meeting and listened to the presentation, and I have also had light conversation with the agent, and neither of these will have any bearing on my decision.

BILL LONGNECKER I think staff and the applicant agree on all the conditions of the CU, with the exception of Item 13, on page six. Specifically the second sentence of that condition which states, "The applicant shall guarantee the closure of all but the approved entrances according to City standards." Staff is requesting a guarantee for the continuation of the curbing, while the applicant objects to the guarantee.

ALDRICH In regard to the closures, are you saying that they need to be curbed if the applicant decides to close any of those driveways?

LONGNECKER Yes, we want a guarantee or a petition ensuring the continuation of the curbing where there is a closure of all but the approved entrance. It does not matter to staff which entrance they close, but one has to be closed and continuation of the curbing must be guaranteed.

GREG FERRIS, FERRIS CONSULTING My applicant has agreed that we will close the west entrance. The only issue that is outstanding is the issue of whether this needs to be new curb and gutter. We feel that at sometime in the not too distant future, staff will either want part of this curbing for an accel/decel lane or it will become part of the improvements to the highway. With these considerations we think it is a waste of money to continue the curb. We are willing to dedicate access control on the closed entrance. Bill had mentioned that DAB VI had made additional recommendations, and added three more conditions. I don't see those.

LONGNECKER Those recommended conditions are on page 3, a-e, listed right above the ADJACENT ZONING AND LAND USE SECTION on that page.

FERRIS We are very amenable to adding the DAB conditions. There will be a tighter limit placed on the number of cars, which was condition (d). We also agreed at the DAB meeting that we would not increase the signage even if we were allowed to do so.

DONNA GOLTRY The additional DAB conditions are listed on page 3.

FERRIS They are not added in the staff recommendations as a conditions.

MITCHELL On page 3 of the DAB recommendations, what is condition (a) talking about? What is a street wall?

FERRIS The street wall is defined as the wall of the building; that is called the street wall. The line extends from that is the street wall line. So if you look where the building is, and you extend that over to the property line. That is defined as the street wall, and we would not display cars for sale to the north of that which gets closer to the residential, and we did agree to that.

MITCHELL So since you have a "L-shape" building?

FERRIS That is not actually part of the building. That is just an overhang, which is separate and in front of the building.

ALDRICH Condition 13, on page 6, how would you define a dedicated closure to the west drive if that were the one that is chosen?

FERRIS It would be closed with the landscaping and the solid pipe barrier, so that is how we would close it. We would actually landscape across that driveway.

DOWNING You are in agreement with all 5-6 recommendations made at the DAB meeting, those being Conditions a-e, on page 3 of the staff report?

FERRIS No, we did not agree to the last part. I think the Zoning Code requires that we have screening if it is adjacent to the residential. That is commercial property, and while DAB VI did want that condition in there, we did not agree to that. We do not have a problem with meeting the Zoning Code but this goes beyond. We do not have any problem with Condition 9, on page 6. I think Bill thinks this covers outdoor storage so we are fine with that.

MARNELL I am curious on comments having to do with closing the drive, you see the City taking that in the next 2-3 years?

FERRIS I think they will eventually take part of the curb line, and what you will probably have there is a free-flow right turn. When that happens they are going to take out the curb. You don't necessarily need any of this property to do that, but you will need to take away the curb that is already there, and we thought it was a bit redundant to put it in and then have it taken out.

MARNELL Do you see this as part of the I-235-Central revisions, or something totally different?

FERRIS Sooner or later they will be doing something on Central.

MARNELL I think we are dealing with a question of time, because I don't even know if they will have that study done in three years.

FERRIS You may be right, but we think they are going to tear out part of the curb, and we didn't want to guarantee the continuation of the curbing and then have it torn out.

MARNELL If you are not going to tear out the curb, are you going to tear the drive itself?

FERRIS We're not planning on it.

MARNELL how would you landscape that cement?

FERRIS We would not landscape the cement. The cement is all in the City right-of-way, and we are not allowed to landscape that without certain provisions. We will landscape on our property where we close the drive with a barrier, and with landscaping on our property. It goes street, driveway, sidewalk and our property.

SHERMAN On page 6, Condition 5, it says, "a parking barrier, and a heavy rail type". So does this mean are you going to put a rail across the entrance, to close it off?

FERRIS Yes, we will also have a landscape barrier, and if you look at the site plan, according to staff, it will have to be revised. The landscaping goes clear across the driveway, and the plan also shows then the rail on the inside of the landscaping, which effectively closes that drive so that there is not access, ingress/egress, from our property and to do so would be impossible.

SHERMAN As it stands today, it's open?

FERRIS Both of them are open, so we are dedicating access on one of the driveways. The issue is whether or not to spend the money to tear our concrete, grass it, curb it, and then have the City come in a couple of years later and tear it out.

WARNER What kind of formula does he use to come to the 15, to the 11 vehicles?

FERRIS If you look at site plan there are 11 spaces, and that is how they come up with that. We don't have any problem with that.

MCKAY If you don't close that driveway off, how are you going to keep people from parking there it is right there at that intersection? You are only 100 feet from the turn off from I-235.

FERRIS It is only 10-feet wide, and there is not enough room to pull a full-length car into there.

MCKAY Sure you can, the right-of-way is 14' X 6' or so.

FERRIS There is only 10-feet from the sidewalk to the edge of the curb line, because I measured it. We were talking about doing additional landscaping in there and there is no room.

MCKAY You are saying that from the curb line now to the back of the sidewalk that the property line is only 10-feet?

FERRIS No, to the front of the sidewalk, so about 13-14 feet.

MOTION: To approve subject to staff recommendation except, Condition #13 is an unnecessary cost to the applicant to absorb, and the driveway will be closed based on the applicants' request.

ALDRICH moved, **HENTZEN** seconded.

MARNELL The applicant objected to Condition (e), which was added at the DAB meeting, and they also added (A-D).

ALDRICH On Item E, my understanding was that is covered under staff Condition 9.

JOHNSON I am familiar with that area, and I am thinking like Commissioner McKay. I would like to see if there is a possibility of making something there so that someone can't pull their vehicle in there. I can see where the applicant doesn't want to do that. I wonder if he can use bumper blocks or something like that or a decorative type pot or something? I would think someone will pull in there and park and then try to back up to Central, and someone will get hit coming off I-235.

WARNER If that is your concern, you should require them to do it per City standards.

JOHNSON I agree with the agent, that Central will be widened or something before long.

MCKAY My only concern was that because of where it located, the proximity to the I-235 exit. Parking is one issue. You are going to leave the west entrance open?

MARNELL No, leave the east entrance open.

MCKAY I can see someone trying to cut the corner there and run into your decorations, or whatever you are going to have there to block it off. I think it would be appropriate to put the curb in, so people cannot turn in there.

HILLMAN Is there any accommodation; you probably have City services and other kinds of things there in that 14-feet under there. Will the City allow you to bring the barrier closer towards the street?

LONGNECKER Public Works has shut off undeveloped right-of-way that intersects developed right-of-way with barriers. As far as the drive, I would have to check with Public Works.

HILLMAN Maybe that would be the best solution.

LONGNECKER You would have to jackhammer up some concrete to put a barrier there.

MCKAY I don't think so, you could drill some holes and put some rebar in and some uprights, and horizontals, and pour a curb.

LONGNECKER So you are suggesting leaving the drive in but continuing the curb?

MCKAY That is what I suggest we do.

ANDERSON What's the motion?

WARNER The motion is to approve this per staff comments, with the exception of closing that west entrance and putting it back to City standards as far as the curb and gutter.

ALDRICH Well it is closing the west entrance, but not putting it back to City standards.

WARNER That is what exception means, not putting it back to City standards.

ANDERSON I don't understand that. Are you saying they will put the curb in according to City standards?

WARNER No, the motion is that they do not have to put in the curb.

MOTION CARRIED 8-4. (DOWNING, MCKAY, JOHNSON, HILLMAN)

5. **Case No.: CON2006-05** —James Morgan (property owner), Robert Shook (applicant) Request Sedgwick County Conditional Use for recreation and entertainment, outdoor, on property zoned "SF-20" Single-family Residential on property described as;

The West Half of the South Half of the Northeast Quarter of Section 28, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, EXCEPT that part taken for Highway on South. Generally located North of K-96 and west of Ridge Road.

BACKGROUND: The applicant is requesting a Conditional Use for Outdoor Recreation (a paintball park), on a 30-acre "SF-20" Single-family Residential zoned site, generally located west of Ridge Road and north of K-96. The unplatted parcel would have access to Ridge via the parcel to the east, which is under the same ownership as the application area. Properties to the north and east are also zoned SF-20, and are primarily used as residential farmsteads. Property to the west is zoned "RR" Rural Residential, and is used for a small airport and agriculture. The nearest residence is over 900 feet from the proposed paintball park site.

The applicant indicates intent to run a commercial paintball park. The attached site plan indicates a vegetated site, with a dry stream-way running through the site. The 1986 FEMA Floodway Map identifies this stream-way as the "Little Slough", a floodway, bounded by the floodway fringe consisting of the 100-year flood boundary and the 500-year flood boundary. Existing vegetation on the site, and proximity should keep the proposed use screened from surrounding properties. The site plan proposes an unpaved access road and parking, an equipment building, and two restrooms. The site plan indicates seven separate fields; the field boundaries are 50 and 125 feet from the exterior property boundaries. The applicant does not indicate how the various fields will be marked on the ground. The applicant has not indicated a desire for field or parking lighting.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-20"	Farmsteads, single-family residences
SOUTH: "SF-5", "LC"	K-96, agriculture
EAST: "SF-20"	Farmsteads, single-family residences
WEST: "RR"	Airport, agriculture

PUBLIC SERVICES: This site is accessed via Ridge Road, a paved two-lane section-line road with a 40-foot half-width right-of-way at the site. The site has no water or sewer.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the "Wichita 2030 Urban Growth Area", and designated as an "Employment/Industry Center."

The UZC provides for Outdoor Recreation as a Conditional Use limited to tennis courts, miniature golf, and similar uses that the Planning Commission has determined will not produce undue noise or attract large numbers of spectators. The UZC goes on to apply supplementary use regulations for the Outdoor Recreation Conditional Use to include lighting, noise, driveway/parking surfacing, the option to establish operating hours, maintenance requirements, and a standard stating that street access shall be

contiguous to an arterial or expressway. Because this application does not meet the driveway and parking area paving requirement, this request will require governing body approval according to the UZC section V-D.6.

RECOMMENDATION: As the Comprehensive Plan identifies this intersection of K-96 and Ridge as a future Employment/Industry Center; the proposed conditional use could be an interim low impact use of the land, requiring little site prep. The floodway on the site could be of some concern, any structures or debris blocking the floodway could cause upstream flooding during heavy rains. Several opposed neighbors contacted staff with concerns about trespassing, disturbing animals, trash, and upstream flooding, see the attached letters. For safety considerations, staff finds that the field boundaries could be a uniform 125 feet from the property boundaries, and physically marked. Because the requested use may not require platting, County Engineering should be consulted to ensure that improvements will not cause flooding problems. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to an updated site plan and the following conditions:

1. The applicants shall obtain all applicable permits including, but not limited to: building, health, drainage and zoning.
2. No structures to include buildings or bridges, materials, or debris shall be placed in the floodplain, nor shall grading take place in the floodplain without approval by the appropriate reviewing agency.
3. If the property is not platted, the applicant shall submit a drainage plan, to be approved by the County Engineer, prior to making any building, parking, road, or site improvements.
4. All buildings on the site shall require a building permit from the appropriate permitting agency.
5. The site plan shall include a minimum 125-foot playing field buffer from the property boundaries.
6. Playing field boundaries shall be physically marked and maintained on the ground with a barrier to ensure that players do not encroach into the 125-foot buffer.
7. Development and maintenance of the site shall be in conformance with the approved site plan and drainage plan.
8. The Conditional Use for Outdoor Recreation shall be for the use of a paintball park and supporting infrastructure only.
9. No lighting of the fields or lighting of parking lots shall be permitted.
10. No sound amplification systems shall be permitted on the site.
11. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: All property surrounding the application area is zoned SF-20 or RR, and used for agricultural purposes, farmsteads, and an airport. The site is immediately north of a busy limited access highway.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-20, which primarily permits agriculture and large lot residential uses. The site could be used for a single-family residence or agriculture without the Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed paintball park could have negative effects on the residences to the north through increased activity, noise, and light. These issues should be mitigated through the proposed conditions limiting lighting, noise, and requiring a 125-foot buffer. Likewise, appropriate agency review should ensure that improvements on the site do not contribute to flooding problems on nearby property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested Conditional Use is in general conformance with the Wichita-Sedgwick County Comprehensive Plan. The request does not meet the driveway and parking area paving standard of the Wichita-Sedgwick County Unified Zoning Code, and must therefore be reviewed by the governing body.
5. Impact of the proposed development on community facilities: The requested Conditional Use will generate increased traffic on this portion of Ridge Road. However, access to K-96 and the improved state of Ridge Road should accommodate increased traffic. The proposed conditions should ensure that the floodway is not impeded, and area storm water systems should not be affected.

JESS MCNEELY Planning staff presented the staff report.

ALDRICH Jess, this being an outdoor or recreation (paintball park) was there a need for this request to be considered by the Park Board?

MCNEELY No, this will not be a public park.

MITCHELL Jess, on page 4 of the staff report, Item 3, states, "Likewise, appropriate agency review should ensure that improvements on the site do not contribute to flooding problems on nearby property." Who is that agency?

MCNEELY Currently, the application area is in the County, so that would be County Engineering.

MITCHELL The County Engineer would review this activity frequently enough to have an answer to that issue?

MCNEELY I believe the conditions of the Conditional Use state that "No structure or debris shall be placed in the floodway." Therefore that would be a violation of the Conditional Use to place anything in the floodway. The reviewing agency would be required to approve their drainage plan, and then it is up to County Code Enforcement to ensure that the Conditional Use Permit is enforced.

MITCHELL Are they planning any kind of vehicular access to the western portion, west of the slough?

MCNEELY No, if you see the site plan, their access road goes to a parking area, which is on the east side of the slough.

MITCHELL Do you know how the fields will be delineated?

MCNEELY The fields primarily sit on the western and southern portion, kind of in the more vegetated areas of the site plan.

MITCHELL How are the fields marked? Are they fenced?

MCNEELY Our proposed conditions include that there be a physical barrier, so the players will have some form of physical barrier, obviously for safety reasons you probably wouldn't want that to be barbed wire fence, but it could be a rope fence, or the orange netting fence like you would use at a construction site.

MITCHELL Part of those barriers would be put in floodway according to this site plan.

MCNEELY That would be part of the drainage plan review.

MARNELL The 125-foot buffer that they have put in some of the places, you were making it a condition, have we done that with other paintball parks?

MCNEELY Actually, because they had proposed 125-feet on certain boundaries, we thought that was a reasonable buffer all the way around. There was a neighbor that had concerns about projectiles leaving this area into their property, the applicant has proposed a certain amount of buffer, and we felt 125-feet was appropriate, knowing that the range of the paintball guns being at about 200 feet maximum range, and they are shooting a big round projectile, 125-feet in a vegetated area seemed safe and appropriate.

MARNELL Have we required that of applicants that have gotten permits in the past?

MCNEELY I can't answer that.

DALE MILLER When this request was on the south side of K-96, there was concern about anyone being able to shoot a paintball gun from the site into the K-96 right-of-way, and we established a setback there, I can't remember what that was. I think this is only the second paintball field that we have processed.

HENTZEN Do you know the age of participants in this type of thing?

MCNEELY The applicant didn't indicate that, but we don't see any constraints as to the age of the participants.

HENTZEN With 30 acres of rough territory are there any prohibitions on four-wheelers? Should there be?

MCNEELY If this was private property they would be free to use all terrain vehicles on it themselves. If that is a concern, I wouldn't think we would want all terrain vehicles being a part of this Conditional Use.

HENTZEN I will ask the applicant.

ALDRICH What types of restroom facilities are there?

MCNEELY We have pointed out that there is no water or sewer to the site, so this would have to be either a septic system, or a port-a-potty type system, or a lagoon. We have placed a condition in the conditional use and the applicant would have to get a permit for whatever their sewage solution is.

WARNER That may be a better question for applicant.

MATT SHOOK, 123 Mars, Wichita, KS. I used to operate the property on the south side for 10 years, until we lost out to the housing development. I heard a question about the buffer range, on the first field that we zoned it was 50-feet to the highway, and within 10 years of operations I have not heard one complaint about a vehicle being shot at.

There was also a question about the normal age range, there is a limit and it starts 10 years of age. For every 15 players we have a referee who is trained in first aid and the safety aspects of the game. It is a really controlled atmosphere. Another question was about the all terrain vehicles. The only time we have ever used a four wheeler, is if there was an accident, if someone had sprang ankle or tripped and fell, we have to have some way to access that area quickly, and that was a recommendation from a few of my friends that work in the emergency rooms as paramedics.

WARNER These paint guns, what is the distance the projectile can travel?

SHOOK They can travel over the 125-foot buffer, on a level plane a 140-feet is about the maximum. If you are arching it up, I could see it going over the 200-foot range. The limits on the stickers on the guns say 200-foot maximum feet, but I can see 250-foot range.

WARNER The 120-feet is not out of line?

SHOOK Because the vegetation in that area is kind of sparse, I don't want some child to accidentally shoot up to the highway and have a car get hit. We felt that a 125-feet through the vegetation was more than enough to stop any projectiles that may travel that distance.

WARNER What do you plan structure wise, everything on the conditions are indicating that nothing will be built in the floodway, are you going to build anything here?

SHOOK The most that we might do is clear some of the foliage as we did with The Edge Paintball Park. The old park had bridges, and this place will not need any bridges. When we vacated that property, and our lease ended because of a housing development it was left in pristine condition. I have seen some picture submitted by a neighbor and I want you to know that is not how we left the park. As far as any buildings, or structures, paintball generally uses inflatable bunkers that are staked down, they are put up and taken down every weekend, if you need a bunker, if we decide to do an Ok-Coral or something like that we would have to get a building permit. At this point, we are not planning on building, it is just playing out in the woods.

WARNER Do you have any problems with the request for a drainage plan?

SHOOK No, I don't really see how a graveled parking lot or gravel road will affect draining in anyway. We are kind of opposed to the paving requirement, because if you have ever been on paving when it is 100 degrees out, it kind of gets hot.

WARNER What kind of traffic do you generate?

SHOOK The average was 40-50 players a day on the weekends, on Saturday & Sunday at the Edge Paintball Park; most of the players trickle in, they all don't show up at once. The boundary lines that were asked about, the fields will have roped boundary lines for safety reasons that are well marked with yellow rope and 6-8 inch ribbon every 3 feet to keep the players inside a boundary line. We have discussed with the landowner about the concerns from the neighbors and we can put up some sort of natural barrier, being tree limbs or whatever or build a fence if it does not involve the floodway. There are a lot of trees there, and it will be pretty hard to get out of bounds, and once you cross the boundary line it will be pretty tough going.

SHERMAN Is this a game? Explain to me how this is played, where are these people moving and where are these zones?

SHOOK Generally paintball is used for church groups, or birthday parties, you split up into two groups, one team starts on this boundary line and the other teams starts on the other boundary line, the object would be a flag in the middle <>

SHERMAN What are you hitting with the paintball?

SHOOK They shoot at each other to try and eliminate the opponents so the other opponent can't.

SHERMAN What is this paintball made of? Is it something that is wrapped in something and then projected in the area?

SHOOK It is kind of like the gel-caps you see on your Tylenol gel caps, its biodegradable, it has a gelatin capsule with a soybean fill.

SHERMAN When this is going though the air, whether it is arched or straight, can wind affect how far it travels?

SHOOK Yes, the wind will blow a paintball off course fairly easy within 40-50 feet.

SHERMAN Is eye protection required?

SHOOK Yes, they wear a full face, ear protection.

SHERMAN So you have this 125-foot perimeter going around and you have two teams going, what keeps them within those perimeters?

SHOOK The boundary lines, and the referee staff.

SHERMAN You were not going to clear much of the land because there is a lot of foliage, now this is all in between these boundaries?

SHOOK We will clear out some deadfall, which means branches that are laying down on the ground for easier movement, usually our boundary lines we clear a path on the inside of the boundary lines so that it is easy access, and you will see the boundary lines quite well, and when a player is eliminated we generally have a penalty box that sits on the edge of the boundary line that they sit until the referee blows the whistle and the game is over. We don't let people wander back to the parking lot; we keep them inside. The referee is there at all times.

SHERMAN You say people are trickling in, are you saying they are trickling in per game?

SHOOK No, per day, you may open at 9:00 a.m. and have a birthday group first thing in the morning and then have other children arrive at noon, you do not have to arrive at 9:00 a.m. when the gates open to get in.

SHERMAN How do you protect this from going outside the boundaries of your property?

SHOOK Protect the paintballs from flying?

SHERMAN Yes, correct.

SHOOK The paintballs are very brittle, they are like an eggshell, they hit a tree or a twig they splatter, and break, and with the foliage that it there it would be hard pressed to get a paintball to go 125-feet through the foliage.

MITCHELL What if the governing body does not approve your proposal to not pave the parking lot or the access road?

SHOOK Well, I guess we'll spend more money.

MITCHELL You can afford to do it?

SHOOK That would be an option that we would have to add into the budget of the park.

ALDRICH I'm going back to the restrooms.

SHOOK At the old park the zoning called for port-a-potties per the number of people we were going to have. I don't mind using port-a-potties again, however I would like to put in some sewer septic system so that we can have flushing toilets, and changing areas, a lot of times we do corporate outings and it has been mentioned in the past that it would be nice to have place to change clothing. A port-a-potty is not an easy place to change.

ALDRICH Are you looking for electricity? How are you going to clean up your trash?

SHOOK Our former provider was contracted with Waste Connections, we do police the area and try to keep it looking like a park. Electricity would be a possibility down the road especially if we were to put septic and sewer in.

JIM NICHOLS, 4425 N. Ridge Road, Wichita, KS 67205 I am opposed to this Conditional Use Permit to use the area for paintball. We would like to see this area left naturally and the federal floodplain left alone. I have lived here 25 years, and I have seen a lot of high water and these two sloughs play an integral part in that. I would like to remind this body that the sloughs are a natural run off in the federal floodplain where the proposed Conditional Use is located. There are two sloughs that carry heavy rains to the southeast behind us in the mile section. The big and little sloughs, these waters must be kept open during heavy rains under Highway 96 or the homes on Ridge Road north of K-96 will flood. When the sloughs become backed up, they twice have put water on my back patio and because of the bridges on K-96 could not let it through fast enough going south it started going west towards Ridge Road and back north instead of south. I have submitted a letter and pictures for the record. I am very concerned about the flooding, trash, and what the property looks like when they leave an area. If you do approve this proposal we would like you to move the north and west boundaries to a minimum of 300-feet from the property line for the safety of the horses and the airplanes on the runway. Also add a clause to the property owner James Morgan that the sloughs must be kept open at all times for free flowing water.

DOWNING All these pictures that you are showing us today, are they on the north side of K-96 or the south side of K-96?

NICHOLS They on the south side.

DOWNING So they are not on the property that is being discussed today?

NICHOLS Exactly.

MARY REED, 4435 N. Ridge Road, Wichita, KS 67205 Opposed to Conditional Use for several reasons. I am concerned about the flooding. Ridge Road, is scheduled to be widened from K-96 to 53rd Street North to four lanes, and construction will begin this year and continue into next year. The construction plans themselves is to build a pump station, which will take the water that drains from Ridge Road and put it back into the little slough, into this very property that is under discussion.

If this approved by MAPC today this will probably force most property owners in this area to obtain Federal Flood Insurance at a personal cost to us. I am also concerned about the possibility of fire, the 9 years I have resided in this area there has been nothing done with this property in terms of grazing, mowing, control burning, etc. I do not feel this is a compatible use with the surrounding businesses, and residences, the increase traffic and noise will be disruptive to wildlife and humans. If this request is approved today please consider the following conditions: 1) Increase the buffer zone to 350-feet. 2) A lockable gate and fencing.

WARNER I hear the speakers today that are very concerned about flooding, what am I missing, that is not there already, what is this gentlemen going to do to create more flooding?

REED Any type of structure he puts in there, there is a waterway on that property. With the heavy dead falls he is going to have to do some clearing to make paths to make room for people to even use the land, is he going to remove all that wood or is he going to leave it there and act as a dam barrier to the water that flows through?

WARNER Wouldn't that be an advantage to get rid of the dead fall?

REED If it is removed from the property.

SHOOK To the neighbors, I understand their fear of flooding, we have dealt with that for eight years, the 1998 flood on the south part of the property. The dead wood will relieve some of that congestion. One of the things we did on the former park is we used to go down to the creek bed and clear out any dead fall that would happen during an ice storm. We don't want to construct anything that would cause flooding. As far as these pictures, if we were to backtrack you would see some of the graffiti on some of the property, Mark Shellenberg is the owner of the property, and his son plays paintball and he has showed me some of these pictures of the property. When we left that property it was in pristine condition and we had a five-day notice before they were going to start construction out there. This property to the north side of the highway which is what we want the Conditional Use for today is a very wide slough, and I believe clearing out the dead brush would help relieve some of the flooding.

HENTZEN Is this property owner the same property owner of the old park where you had been operating?

SHOOK No. Chuck Woodard was the property owner, and the deed changed in August 2005 to Mark Schellenberg. Mr. Morgan is the owner of the property on the north side of Ridge Road.

HENTZEN While you were there for 9 years, who owned the south?

SHOOK Chuck Woodard.

HENTZEN So this is a new property owner on the north side?

SHOOK Yes.

DUNLAP What kind of lease or rental agreement are you entering into with this property?

SHOOK We are looking at a 5-year lease plan.

MITCHELL How long ago did vacate this property that is shown in these pictures?

SHOOK We vacated the second weekend of August 12th, 2005.

MITCHELL Less than a year ago, all that has gone from pristine conditions to this in less than a year?

SHOOK Yes it has, if you look back, you will see some of the graffiti, there were several parties held down there and the police called me and I informed them that we no longer had a lease on the property, when we left, we left our gates to the Schellenberg family so they could lock it up however that does not seem to be the case.

MOTION: To deny the application.

ALDRICH moved, **SHERMAN** seconded the motion.

SUBSTITUTE MOTION: To approve the application with the 125-foot buffer all around the property.

MARNELL moved, **ANDERSON** seconded the motion.

MARNELL It seems to me that there probably couldn't be a better place to put something like this.

ALDRICH I understand what your saying, looking at those pictures, I think there should also be some responsibility on how to leave the property the way it was or at least the condition that it was prior to.

JOHNSON Is there anything in any of our responsibilities that deals with this type of situation when someone leaves something trashy? I don't know of anything. I also have a different opinion of it now knowing that there is a supervisor or a referee on the field. I will support the motion to approve.

DUNLAP I will support the substitute motion because it is small business trying to start and I don't see any permanent damage to the property, I don't like the activity, but I will support the substitute motion.

HILLMAN It's kind of a mix for me. I would like to ask John, is the property south of K-96 where most of the problem is right now, is that in Wichita or Sedgwick County?

MCNEELY South of K-96 is in Wichita.

HILLMAN So it is a Wichita Inspection problem up to that and then KDOT or someone will maintain the clearance under the bridge that is the real problem, it is not the small business owner, who hopefully will agree to maintain and keep the waterway open.

MOTION carried 8-4. (MITCHELL, HENTZEN, ALDRICH, SHERMAN opposed).

❖ **PLANNING COMMISSION ITEM**

6. McConnell Air Force Base Joint Land Use Study update presented by John Schlegel, Planning Director, Dave Barber, Advance Plans Manager and Mike MacKay, MAFB, Environmental Engineer.

DAVE BARBER, Planning staff Presentation of the McConnell Air Force Base Joint Land Use Study. Two Mission Scenarios; Existing Mission (2004 AICUZ) and Maximum Mission.

Dave reviewed the following eight recommendations,

- 1) To establish Implementation Coordinating Committee.
- 2) Revise and continue to implement current regulatory requirements. (2 & 8 together)
- 3) Institute Noise Level Reduction measure in Local Building Codes.
- 4) Negotiate agreement with Cessna Aircraft Company.
- 5) Establish a Real Estate Disclosure Process.
- 6) Initiate Land Protection Acquisition in Accident Potential Zone (APZ).

MIKE MACKAY, McConnell Air Force Base (MAFB) Environmental Engineer Are there any question with the presentation?

DUNLAP When we talk about land acquisition purchase, does the Air Force have dollars for that?

MACKAY I hear a lot of people asking if the Air Force is so interested in protecting McConnell, why don't they purchase our land? You realize McConnell is part of a much larger organization, the US Air Force, which is under the US Department of Defense, and most of the real decision makers are at the headquarters level or at the Pentagon and none of them are interested at all in acquiring property or even that interested in protecting McConnell. They are primarily interested in accomplishing a mission, which in this case refueling means delivering a certain amount of fuel to a quadrant at a certain time as cost effectively as possible. It is pretty transparent to them whether the deliver vehicle is stationed in Kansas, or some other State, so the answer is, No.

DUNLAP The other question, if you don't have the money, and we don't have the money, why is it on the list?

MACKAY The consultant that prepared the JLUS wasn't focusing on the amount of money that may or may not be available at this time. These were just the eight recommendations they thought would be most favorable to protect the military value of the existing installation.

ALDRICH What do you think of the recommendations?

MACKAY I think that most of the recommendations are very sound and we have had a great deal of success in the past. Back in the early 1990's when the 1991, 1993, 1995 base closures were occurring the City of Wichita, the City of Derby, and Sedgwick County voted unanimously to adopt the Airport Overlay District, which protected the clear zones. The noise contours are less, but they are still important because when noise complaints are made, they are funneled up to the Pentagon and once again that reduces the military value of installation, and it keeps us at a much lower priority to get new missions.

HILLMAN In this clear zone, what if somebody does in fact want to buy a formerly light housing area and set up maybe a maximum two-story warehouse or something.

MACKAY You are not referring to the clear zone, I am assuming you are talking about the anti-terrorism layer around McConnell, because the clear zones are the most restrictive right now and about the only uses that are allowed is agriculture, and some very low intensity uses.

HILLMAN Extending on out.

MACKAY Potential zone 1 & 2?

HILLMAN Right, that would be a place where you had a problem with a engine that you want to set down a plane, I see the establishment of warehousing at least there is not houses that you would have to land on, but I still see problems with warehouses in industrial areas, why not just keep it clear?

MACKAY Because as you get further away, these zones were established by looking at accidents over the last 35 years and the frequency of that determined that more accidents in this little 3,000 X 3,000 foot block. The Lowe's located at the corner of 63rd and K-15 is a compatible land use because it falls within the 28% floor area ratio which is compatible in that area.

JOHNSON Explain to me that if there is a complaint that is filed on McConnell from noise, that complaint goes where?

MACKAY Typically those complaints come into the Public Affairs Office, and per Air Force instruction, they have to funnel all those up through major command, which is the Scott Air Force Base and then they go to the Pentagon where they are kept and recorded.

JOHNSON How much information is taken? What if someone called just to call?

MACKAY That happens quite frequently. People call and say why do you have to fly your planes in the middle of the night? Why do you have to fly them over my house? Every one of those is consider a noise complaint.

JOHNSON One of the recommendations on this list had to do with real estate disclosure. How would the Pentagon look at something like that? Would they say that you built there knowing the noise was going to be that, or is that just another strike against?

MACKAY The disclosure process is just to educate the prospective buyer, much in the way as to say if you were to buy property in a floodplain.

JOHNSON How would the military look at that?

MACKAY The military does not consider it at all.

JOHNSON So the same people could call and it would still be a complaint?

MACKAY Yes, it would.

DOWNING Those complaints are tabulated even though they may be bogus complaints and count against the base when they go to a base closure study, is that not true?

MACKAY Realize that when it comes down to base realignment and closure, there is a much more than just noise complaints involved. There is the infrastructure of the facility and it all falls into what they call the military value of it, how old are your facilities, how much air space do you have, do you have any restrictions to your air space and can you expand to accept another mission in the future? How the community is encroaching into the base is typically measured in terms of the number of noise complaints, and also by what they call incompatible development within those rectangular accident potential zones.

DOWNING Would you let the Planning Commission know what some of the other bases are doing in order to facilitate this problem.

MACKAY You may not know this but we in the military are not allowed, in fact we are expressly forbidden to actively BRAC-proof the base. However the local communities around those bases frequently do go through a BRAC-proofing processes. I took the liberty to print out some articles from the Internet and you can see what other communities and States have done.

ANDERSON I would like to see the Planning Commission take up the next two items on the Agenda.

DUNLAP How often do we go through BRAC?

MACKAY It never seems to happen on a concrete basis, it happened in 1988, 1991, 1993, 1995, and 2005, so there is no real pattern. A lot of it is politically driven, and a lot of it is economically driven, so we don't know. We are not sure what are next mission is going to be.

❖ **PUBLIC HEARINGS (CONTINUED)**

7. **Case No.: ZON2005-60** – JRD, LLC, c/o Jay Russell (owner/applicant) / Baughman Company, c/o Russ Ewy (agent) Request Sedgwick County Zone change from "SF-20" Single-family Residential to "MF-29" Multi-family Residential on property described as;

That part of the E1/2 of said SW1/4 described as follows: Beginning at the NW corner of the E1/2 of said SW1/4; thence S 89 degrees 17'18" E along the north line of the E1/2 of said SW1/4, 785.06 feet; thence S 00 degrees 00'06"E, 198.63 feet; thence S 45 degrees 18'16"W, 140.66 feet; thence S 89 degrees 23'22"E, 242.33 feet; thence S 68 degrees 41'23"W, 302.36 feet; thence S 89 degrees 59'54" W, 161.00 feet to a point on the west line of the E1/2 of said SW1/4; thence N 00 degrees 00'06"W along the west line of the E1/2 of said SW1/4, 414.62 feet to the point of beginning, all being subject to road rights of way of record. Generally located East of Clifton, 1/2 mile north of 55th Street South.

MAPC Deferred February 16, 2006

BACKGROUND: The applicant is seeking "MF-29" Multi-family Residential zoning for an unplatted tract containing approximately 6.20 acres located about one-half mile north of 55th Street South and east of South Clifton Avenue. The property is currently used for crop production.

Property to the north is currently zoned "LI" Limited Industrial. It is currently vacant, but owned by USD 260 (Derby Public Schools) and is located adjacent to Oaklawn Elementary. The property to the west, across Clifton Avenue, is zoned "SF-20" Single-family Residential and occupied by Pinaire Mobile Home Park, which is allowed by way of conditional use permit (CU-96). Immediately north of Pinaire is Oaklawn Subdivision, which is zoned "SF-5" Single-family.

The subject property is part of a larger overall development project. The applicant also owns the adjacent property to the south and east, for which a preliminary plat (Clifton Heights Addition, SUB2005-00098) has already been approved for a single-family development. An annexation request is currently being processed for that property, which would be zoned "SF-5" Single-family upon approval of the annexation. Also, the applicant has submitted an application for a zone change (ZON2005-00061) to "LC" Limited Commercial with a community unit plan (DP-294 Clifton Heights Commercial CUP, CUP2005-00075) and a zone change (ZON2005-00059) to "GC" General Commercial on two tracts adjacent to the single-family development. In addition, the applicant also owns several tracts on the opposite side of Clifton Avenue.

As part of the platting process, access controls and other normal urban service commitments will be obtained. Screening of multi-family trash receptacles is required when residential zoning or a public street is located within 150 feet of the receptacle. Dumpsters must be located a minimum of 20 feet from any property zoned "TF-3" or more restrictive. Compatibility side and rear setbacks between 15 and 25 feet are required when a multi-family development is located within 500 feet of property zoned TF-3 or more restrictive. Compatibility height standards restrict building height to 35 feet adjacent to property zoned "TF-3" or more restrictive, except the building may increase one foot in height for every three feet of setback greater than 50 feet.

The *Comprehensive Plan* and the *Oaklawn/Sunview Neighborhood Revitalization Plan* recommend industrial and warehousing types of uses for the subject property. These recommendations were based upon the 1994 Air Installation Compatible Use Zone (AICUZ) study for McConnell AFB. According to the McConnell AFB Joint Land Use Study (JLUS), completed in 2005, McConnell's mission changed in 2002. This change in mission resulted in a reduction of the "Mission Area." Nonetheless, the JLUS recommends preservation of the "Maximum Mission Area" through the next two to three years. Although the implementation of the

JLUS recommendations has not yet been approved, the governing bodies of Wichita, Sedgwick County and Derby have formed a committee to determine which of the JLUS recommendations to implement.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "LI"	Vacant Institutional
SOUTH: "SF-20"	Agricultural
EAST: "SF-20"	Agricultural
WEST: "SF-20"	Manufactured Home Park

PUBLIC SERVICES: Clifton Avenue is a two-lane collector street with a traffic count of approximately 3,100 vehicles per day. It has a 125-foot right-of-way, which includes substantial drainage ditches. A 24-inch sanitary sewer line is located in the Clifton Avenue right-of-way, as is a 12-inch water line. These utilities will need to be extended to the subject property.

CONFORMANCE TO PLANS/POLICIES: According to the *Unified Zoning Code*, MF-29 zoning is a high-density, multi-family residential district that "...is intended for application within the City of Wichita." The *Comprehensive Plan's* residential location guidelines state that: high density uses should be located within walking distance of schools; they should be directly accessible to arterial or collector streets and these uses should be sited where they will not overload or create congestion in existing or planned facilities. The proposal generally conforms to these residential Locational guidelines. However, the proposal is not consistent with the following adopted plan elements. The *Comprehensive Plan's* generalized recommended land use map shows this site to be appropriate for "Employment/Industry." *Comprehensive Plan* Strategy V.D2 states that we are to "prevent encroachment of incompatible development around airports" by minimizing high concentrations of people in takeoff/landing zones, utilizing noise reduction techniques and preventing hazards to air traffic. Furthermore, the *Oaklawn/Sunview Neighborhood Revitalization Plan* designates the subject property as appropriate for "warehousing and light manufacturing" and "limited to activities that place very little demand for water and sewer services."

RECOMMENDATION: There are several factors to consider in this recommendation. First is the fact that the land use recommendations in the *Comprehensive Plan* and the *Oaklawn/Sunview Neighborhood Revitalization Plan* are based upon the 1994 AICUZ, rather than the newer 2004 AICUZ study. The new mission area of McConnell AFB is greatly reduced from the previous mission area, upon which the referenced recommendations are based. Second, the JLUS recommendations have not been adopted to date, leaving no mechanism whereby to require compliance. Finally, given the preliminary plat for Clifton Heights Addition has been approved and an annexation request has been made, the multi-family use could serve to buffer the single-family uses of the Clifton Heights Addition from the "LI" Limited Industrial zoning to the north and the manufactured home park across Clifton Avenue to the west.

Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year. It is recommended at the time of platting, the applicant shall guarantee improvement of a third lane on Clifton Avenue, plus any other required improvements.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property to the north is currently zoned "LI" Limited Industrial, but is owned by USD 260 (Derby Public Schools). The remaining nearby property is zoned "SF-20" or "SF-5" residential, and includes single-family residential and manufactured home uses. If the annexation request for the Clifton Heights Addition plat is approved, the surrounding uses to the south and east will likely be residential in nature.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned "SF-20" which allows a lower density of development and has fewer uses by right than the district requested. The property could be developed as zoned, however higher density urban type zoning exists on nearby tracts.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Density and traffic volumes will increase over current conditions if the requested zoning is approved. However, given the preliminary plat for Clifton Heights Addition has been approved and an annexation request has been made, the applicant's request represents sound land use planning. The subject parcel will serve to buffer the single-family uses of the Clifton Heights Addition from the "LI" Limited Industrial zoning to the north and the manufactured home park across Clifton Avenue to the west.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is in conformance with recommended location guidelines for high density residential uses (cited above). However, the request is not in conformance with the land use recommendations of the *Functional Land Use Guide* and the *Oaklawn/Sunview Neighborhood Revitalization Plan*.
5. Impact of the proposed development on community facilities: Traffic volumes will increase and there will be increased demand for municipal services over the agricultural use that exists today. However, the recommended improvements required at the time of platting should be sufficient to minimize such impacts.

SCOTT DUNAKEY Planning staff presented report.

SCHLEGEL Scott, will you point at that graphic, on the easel, where this property is located in relationship to the base and the APZ?

DUNAKEY This case being considered is in context with a larger overall development proposal, which includes two other cases that are on the Agenda today. (Points on the map-graphic)

SCHLEGEL Right, that is for the maximum mission area?

DUNAKY Yes, for the maximum mission area. Not the current mission area. This property is barely outside of the APZ lines, and the Airport Overlay.

JAY RUSSELL, Over the last couple of years we have acquired a lot of that ground west of K-15 down to 63rd Street all the way over to the river. It has been an undeveloped area forever and it is just south of Oaklawn. We have spent the last couple of years getting it developed for residential uses. In fact we have one plat, almost all of the ground west of Clifton over to K-15 and north of 55th is already platted for the residential purposes.

We came in to request these zoning cases because we wanted to get them approved and out of the way before we started building any of the houses. But, about 3-4 weeks ago I had some discussions with the Mayor of Derby, and one of the County Commissioners about is this really the right thing for us to do in protecting this area and protecting that Air Force Base. According to the information I have been given that Air Force Base has an economic impact to this community of \$455 million a year. I think that is so substantial with the amount of money that we spend in this community to try and create jobs and economic growth to not do everything in our power to protect that asset, we already have, I think is a mistake.

So after those discussions about three weeks ago, the installation of the infrastructure for all of the residential, which appears to be the biggest concern for the protection of that Air Force Base, we have put it on hold, and it will remain on hold until some good dialogue is held with all of the community leaders to make sure we are doing the proper thing to protect that Air Force Base.

In reference to these cases today, I am going to request to defer the apartment zoning which is this case until such time that dialogue occurs. As far as the other two parcels, Item 8 on your Agenda we are going to also request that you will go ahead and approve it, but we will remove any residential uses from the CUP until such time that the powers that be make a decision that it is appropriate or it isn't. The case shown in red has already had all the concerning issues removed from it so I don't think there is any reason why that one cannot be approved.

MOTION: To defer this application indefinitely or until the Joint Land Use Study Implementation Committee determines which recommendations to implement.

MCKAY moved, **DUNLAP** seconded the motion, and it carried (12-0).

8. **Case No.: ZON2005-59** – JRD, LLC c/o Jay Russell Request Sedgwick County Zone change from "SF-20" Single-family Residential to "GC" General Commercial on property described as;

Commencing at the SW corner of said SE1/4; thence N 89 degrees 55'38"E along the south line of said SE1/4, 786.61 feet for a point of beginning; thence N 00 degrees 04'22"W, 60.00 feet; thence N 21 degrees 07'06" W, 80.00 feet; thence N 01 degrees 38'53"W, 132.71 feet; thence N 21 degrees 23'51" W, 228.92 feet; thence N 21 degrees 53'29" E, 161.84 feet; thence N 55 degrees 39'31"E, 112.93 feet to a point on the west right-of-way line of the Burlington Northern and Santa Fe Railroad; thence S 25degrees 04'46" E along said railroad right-of-way, 747.98 feet to a point on the south line of said SE/4; thence S 89 degrees 55'38"W along the south line of said SE/4, 330.36 feet to the point of beginning.
Generally located North of 55th Street South and 1/2 mile east of Clifton.

MAPC Deferred February 16, 2006

BACKGROUND: The applicant is requesting rezoning from "SF-20" zoning to "GC" General Commercial for the 3.5-acre unplatted Sedgwick County site located on the north side of 55th Street South and immediately east of an active railroad right-of-way (ROW) and State Highway K-15 ROW. The site has approximately 330-feet of frontage along 55th Street South. The west and north sides of the site abut a drainage channel/creek, which flows from the northeast under K-15 and then south under an almost completed Sedgwick County bridge, which is part of 55th Street South. The undeveloped site is currently an uncultivated field with most of it covered with trees. The site is located approximately ½ - ¾ miles southeast of the single-family residences (built early 1950s) in the Oaklawn Neighborhood, less than two-miles southwest from McConnell Air Force Base (AFB 1942-1946, 1951 to the present) and is just outside of the Derby area of zoning influence. The Boeing and Spirit (formerly Boeing Commercial) aircraft companies, abut McConnell. The site is located within the "Wichita 2030 Urban Growth Area".

Properties east of the site, across the railroad and K-15 ROWs are zoned "SF-20" and "RR" Rural Residential. These properties east of the ROWs are mostly undeveloped fields, but include a mixed grouping of mostly older stick framed homes and some manufactured homes. Construction of the residences in this triangular grouping (defined by 55th on its north side, Oliver Avenue on its east side, K-15 on its west side and 61st Street South on its south side) began as early as 1918 (one residence), with most of the homes being built in the 1950s and some in the early 1970s. Almost all of these residences are in the "A-O McConnell Airport Overlay District II-S (A-O II-S)" as cited in the Unified Zoning Code, III, Sec. III-C. This overlay district prohibits residential uses and uses that would concentrate large numbers of people for public safety reasons and to preserve the mission of McConnell AFB.

Properties located west, north and south of the site are all zoned "SF-20". The previously noted creek and the railroad and K-15 ROWs defined the property south (across 55th) of the site, which is an uncultivated field and resembles the site. Property north of the site is an uncultivated field and resembles the site. West of the site, across the creek, there is a proposed approximately 156 lot single-family subdivision, SUB2005-98, on what is now an agricultural field. This residential subdivision extends west to Clifton Avenue and abuts two other zoning case sites that are on today's agenda; CUP2005-75 & ZON2005-61, a request for "LC" Limited Commercial zoning and ZON2005-60 a request for "MF-29" zoning.

The zone change request will trigger platting, compatibility setback, height, noise and design standards, screening and landscaping and other urban development standards.

CASE HISTORY: The site is included in the "Oaklawn/Sunview Neighborhood Revitalization Plan", which was adopted by the Sedgwick County Board of County Commissioners (Resolution #37-02) March 20, 2002 and by the Wichita City Council (Ordinance #45-299, DR2000-00018) April 9, 2002. ", which identifies it as appropriate for warehousing and light manufacturing. The site is also shown to be in the "2005 McConnell Air Force Base Joint Land Use Study" (JLUS). McConnell's mission changed in 2002, however a "maximum mission area" has been identified. The JLUS recommends preservation of the "maximum mission area" through the next two years. Specific implementation of the recommendations is to be determined in the future.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-20"	Creek, uncultivated field
SOUTH: "SF-20"	55 th Street South ROW, uncultivated field
EAST: "SF-20", "RR"	Railroad and K-15 ROWs, uncultivated field, single-family residential
WEST: "SF-20"	Creek, residence, agricultural field

PUBLIC SERVICES: Access to the site is off of 55th Street South, a paved, two-lane Sedgwick County highway that ends approximately a mile west of the site, before it gets to the Arkansas River; there are no plans to build a bridge to allow 55th to cross the river. K-15 is a four-lane state highway, with a left hand turn lane. The 2030 Transportation Plan projects no change for these roads. Traffic counts for 55th, west of its K-15 intersection are 610 ADTs. This is projected to increase to 1,000 ADTs in 2030. Traffic counts for K-15, at its 55th intersection are 27,000 ADTs. This is projected to increase to 39,000-40,000 ADTs in 2030. There are crossing lights, but no arms/gate, at the 55th Street South railroad crossing. Public sewer and water services will have to be extended to the site.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Functional Land Use Guide" of the "Wichita-Sedgwick County Comprehensive Plan" identifies the application area as appropriate for "employment/industry center". The types of uses in this category include centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature, with the range of uses including manufacturing and fabrication, warehousing, shipping centers, call centers and corporate offices.

The site is also located in the "Oaklawn/Sunview Neighborhood Revitalization Plan", which identifies it as appropriate for warehousing and Air Installation Compatible Use Zone" (AICUZ) study for McConnell Air Force Base (AFB). According to the "McConnell AFB Joint Land Use Study" (JLUS), completed in 2005, McConnell's mission changed in 2002. This change in mission resulted in a reduction of the "maximum mission area", which the site was located in. The "maximum mission area" is defined as the noise contour boundaries map established by the 1994 AICUZ study. The 2005 JLUS recommends preservation of the "maximum mission area" through 2007, with the aim being:

- (a) To protect and promote the present and future operational/mission capacity of McConnell AFB.
- (b) Promote the long-term health, welfare and safety of the civilian and military community associated with and in proximity to McConnell AFB.
- (c) Prevent future urban encroachment into McConnell's 1994 AICUZ area to ensure compatibility between existing future competing land and air space use (military and civilian).
- (d) Develop ongoing public education/awareness initiatives to help implement JLUS recommendations.

Although the implementation of the JLUS recommendations has not yet been approved, the governing bodies of Wichita, Sedgwick County and Derby have formed a committee to determine which of the JLUS recommendations to implement.

The requested "GC" zoning with the provisions of the proposed Protective Overlay meets the intent of the "Wichita-Sedgwick County Comprehensive Plan", the "Oaklawn/Sunview Neighborhood Revitalization Plan" and the as yet not adopted 2005 "McConnell AFB Joint Land Use Study."

RECOMMENDATION: Typically Staff does not recommend "GC" zoning when abutting single-family residential zoning if there is no buffering of less intensive zoning between the two, but because the applicant has indicated that development interested in the site involves outside storage Staff has proposed a Protective Overlay that would essential allow "LC" uses plus outdoor storage. Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED with platting within a year and the following provisions of PO #168:

- (1) Prohibited uses included all residential uses, group residences, assisted living, bed and breakfast inns, hotels/motels, recreational vehicle campgrounds, churches and places of worship, auditorium or stadium, community assembly that would attract more than 25 spectators/participants per acre at any time, recreation and entertainment indoor or outdoor that would attract more than 25 spectators/participants per acre at any time, public and private schools (all levels) or libraries, day care centers, hospitals, convalescent care, retail food stores of more than 3,000 square-feet, adult entertainment establishments, sexually oriented businesses, private club, tavern and drinking establishments, correctional placement residence, correctional facilities and an asphalt/concrete plant.
- (2) Maximum height for all buildings of 45-feet; this does not over ride the compatibility height standards.
- (3) If development on the site involves uses that have outdoor storage or extensive outdoor display a landscape and screening plan shall be submitted to the Planning Director for review and approval.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is predominately zoned "SF-20" and is either uncultivated fields or agricultural fields. Proposed development in the area include a single-family residential subdivision, an "LC" zoned CUP and multifamily residential, all located west and across the creek from the site.

The site and the just mentioned proposed developments are all in the Oaklawn/Sunview neighborhood and present a scale of investment and development in this area that has not occurred since the 1950s. The proposed single-family residential subdivision will probably introduce an upgrade in the quality of housing in the Oaklawn/Sunview area, which also includes the Pinaire Mobile Home Park Addition. Properties east of the site, across the railroad and K-15 ROWs are impacted by the "A-O McConnell Airport Overlay District II-S" which basically prohibits any future residential development or development that would allow large concentrations of people for public safety reasons. This overlay district also protects both the integrity and mission of McConnell AFB, by preventing encroachment into the land and air area of the "maximum mission area" of the AFB.

2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "SF-20" and could continue to be used with this zoning designation, although its abutting the railroad and K-15 ROWs, and being in the 75db noise contour of McConnell may have made it less desirable for residential development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of "GC" General Commercial zoning with the proposed PO would allow uses that have been recommended by adopted plans for the area as well as plans under consideration that the area is included in. Some of the prohibited uses listed in the proposed PO would also eliminate uses that could become a nuisance to the proposed and existing single-family neighborhoods; those prohibited uses included adult entertainment establishments, sexually oriented businesses, private club, tavern and drinking establishments, correctional placement residence, correctional facilities and an asphalt/concrete plant.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: This is the area designated on the Wichita Functional Land Use Guide" of the "Wichita-Sedgwick County Comprehensive Plan" and the Oaklawn/Sunview Plan as appropriate for manufacturing and fabrication, warehousing, shipping centers, call centers and corporate offices. The proposed "GC" zoning with the proposed PO generally conforms to those plans.
5. Length of the time property has remained vacant as zoned: The property appears to have never been developed and judging by the number of trees on the site it also appears to have been a long time since it has been cultivated for agricultural use. Its irregular configuration with the creek on its west and north sides and the railroad and K-15 ROWs on its east side make the property a challenge to develop.
6. Impact of the proposed development on community facilities: The proposed zone change can be anticipated to add to the traffic count along 55th Street South in addition to the proposed single-family, commercial and multi-family development west of the site. Crossing over onto K-15 from 55th can be anticipated to become more problematic, as this intersection has no traffic lights, although traffic along 55th west of K-15 should remain local in character, as 55th ends approximately a mile west of the site, short of the Arkansas River. All public utilities will have to be extended to the site.

BILL LONGNECKER Planning staff presented report.

MOTION: To approve per staff recommendations.

MITCHELL moved, **DOWNING** seconded the motion, and it carried (12-0).

9. **Case No.: CUP2005-75 Associated with (ZON2005-61)** – JRD, LLC, c/o Jay W Russell (owner); Baughman Company, PA, c/o Russ Ewy (agent) Request The creation of DP-294 Clifton Heights Commercial Community Unit Plan; and Sedgwick County Zone change from "SF-20" Single-family Residential to "LC" Limited Commercial on property described as;

That part of the E/2 of said SW/4 described as follows: Beginning at the Southwest corner of the E/2 of said SW/4; thence N 00 degrees 00'06" West along the West line of the E/2 of said SW/4, 1185.00 feet; thence North 89 degrees, 59'00" East, 721.77 feet; thence South 00 degrees 01'00" East, 88.00 feet; thence South 17 degrees 54'31" East, 288.38 feet; thence South 17 degrees 41'49" West, 234.62 feet; thence South 06 degrees 06'51" West, 362.27 feet; thence South 66 degrees 59'10" West, 158.00 feet; thence South 00 degrees 01'00" East, 177.15 feet to a point on the South line of the E/2 of said SW/4; thence South 89 degrees 59'00" West along the South line of the E/2 of said SW/4, 555.16 feet to the point of beginning. Generally located on the northeast corner of 55th Street South and Clifton Avenue

MAPC Deferred February 16, 2006

BACKGROUND: The applicant proposes to create a commercial Community Unit Plan containing approximately 16.84 gross acres (16.55 net acres) with seven parcels on the northeast corner of 55th Street South and Clifton Avenue. Proposed zoning for all parcels is "LC" Limited Commercial. Parcels 1-5 are out parcels located along Clifton Avenue and are 1.15 acre in size except Parcel 5 at the intersection, which is 1.43 acres. Parcel 6 (3.60 acres) has frontage on 55th Street South, and Parcel 7 (6.93 acres) is an interior parcel with a 60-foot wide access drive connected to Clifton Avenue.

Proposed uses are those uses allowed by right in LC except: adult entertainment establishment, sexually oriented business, group residential, correctional placement residence, asphalt/concrete plant; private club, tavern and drinking establishment. This would include residential uses and multi-family residential is shown as a potential use for Parcel 7 but restricted to a density allowable in the "MF-18" Multi-family Residential zoning district. Other use restrictions will be recommended for Parcel 1 and for the northern 150 feet of Parcel 7 due to the proximity of these parcels to proposed single-family residential use. Conditional uses would require a

subsequent CUP amendment in lieu of conditional use approval. More stringent use restrictions are proposed for Parcel 1 and for the northern edge of Parcel 7 adjacent to the proposed single-family development along the northern property line.

Building setbacks would be 35 feet on along Clifton, 55th Street South and the northern property line. Internal building setbacks would be 15 feet but not be required if parcels are developed under the same ownership. Setbacks on the east property line are proposed at 30 feet due to the presence of a 300-wide drainage reserve on the east. Also, the masonry wall along the east property line is requested to be optional. A setback of 35 feet and a solid masonry/concrete wall are both standard requirements for a commercial community unit plan abutting residential zoning, and any deviation from these standards requires governing body approval. For this site, landscape berms and screening along the edge of the wide drainage reserve would provide adequate buffering of the site so long as solid screening is provided for loading docks, trash receptacles and outdoor work and storage areas.

Each parcel would be permitted one monument-type sign per arterial frontage with a maximum height of 20 feet and maximum size of 120 square feet except for Parcel 7 with a maximum size of 150 square feet. The total amount of ground sign face area requested is 990 square feet, which is 0.63 times the linear frontage. The Wichita Sign Code allows 0.50 times the linear frontage for collector and undesignated streets unless other side of the street has commercial or industrial zoning; then it is permitted 0.80 times linear frontage. This amount represents a slight increase over basic Wichita Sign Code provisions, but is still well below the 0.80 times the linear frontage allowable for LC along arterial streets. Signs would be spaced 150 feet apart except for Parcels 1, 2 and 7 where the spacing could be reduced to 100 feet apart. Even with this reduced spacing, total number of signs is within the permissible range for the Sign Code. Window displays would be limited to 25% of window area and signs on the rear would be prohibited. Moving signs except time and temp or public service message are prohibited.

Buildings would have uniform architectural compatibility of character, color, texture and materials, and would use earth-tone colors predominately. Parking lots would have similar or consistent lighting elements, limited to 24 feet in height except in proximity to the north property line where the maximum height of the lights, including pole, base, fixture and lamp, would be 18 feet. Maximum building coverage of 30 percent and maximum gross floor area of 35 percent is being requested. The maximum building height would be limited to 35 feet. One building is requested for the out parcels; this increases to three buildings for Parcel 6 and six buildings for Parcel 7.

The property currently is zoned "SF-20" and is in agricultural use. All the surrounding property is in agricultural use except the tract to the northeast, which is developed with the Pinaire Mobile Home Park (CU-96). Drainage is a major concern in the area, witnessed by the large drainage reserve shown east of this tract as well as other larger drainage reserves farther north designed to redirect current drainage flow across the quarter section to the property to the west, as it moves toward the river.

The proposed CUP is part of a larger overall development project. Three additional cases are being processed currently by MAPD. First, the applicant also owns the adjacent property to the north and east that has received preliminary plat approval as Clifton Heights Addition (SUB2005-00098). Additionally, an annexation request is being processed for it. If annexed, the property would transition from "SF-20" to "SF-5" Single-family Residential zoning. Second, the applicant has submitted an application for a zone change (ZON2005-00059) to "GC" General Commercial at the northwest corner of 55th Street South and K-15. Third, the applicant has submitted a request for a zone change (ZON2005-00060) to "MF-29" Multi-family Residential for a tract located north of the proposed Clifton Heights Addition. In addition, the applicant also owns several tracts on the opposite side of Clifton Avenue.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-20"	Agricultural, manufactured home park (CU-96)
SOUTH:	"SF-20"	Agricultural
EAST:	"SF-20"	Agricultural
WEST:	"SF-20"	Agricultural

PUBLIC SERVICES: Two access points are requested on 55th Street South, with the access nearest the intersection restricted to right-in/right-out only. Three access points are requested on Clifton Avenue, with one nearest the intersection restricted to right-in/right-out only. The access points generally conform to the Access Management Policy for urban development.

Currently, Clifton is improved as a two-lane county road with open drainage structures. It is classified as an urban collector street. Recent traffic counts were 3,100 vehicles per day between 47th Street South and 55th Street South. No traffic volume projections were available for Clifton.

55th Street South is improved as a two-lane county road, and is classified as a local road. Recent traffic counts on 55th Street South between Clifton and K-15 were 610 vehicles per day. Traffic volumes on 55th Street South had been projected to increase very slightly by 2030 to 1,000 vehicles per day. This projection was based on an assumed very low development density of the surrounding area and the disconnectedness of the transportation system. 55th Street South terminates at the river less than a mile west of Clifton Avenue. Clifton runs less than three miles in length, beginning at K-15 south about one-fourth mile south of MacArthur Road and terminating at 63rd Street South.

Traffic expected from this development would be a substantial increase over current traffic volumes. A rough estimate of traffic generated by the CUP would be approximately 10,000 trips per day (based on 250,000 square feet of gross floor area and with a trip generation rate of 40 vehicles per day per 1,000 gross floor area). This estimate was made without knowing the results of the traffic study evaluation that would be factoring in types of uses, multi-stop trips, drive-by stops, etc.

Other normal public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "employment/industry center" use. The

Oaklawn/Sunview Neighborhood Revitalization Plan recommends warehousing and light manufacturing uses for the subject property. These recommendations were based upon the 1994 Air Installation Compatible Use Zone (AICUZ) study for McConnell AFB. According to the McConnell AFB Joint Land Use Study (JLUS), completed in 2005, McConnell's mission changed in 2002. This change in mission resulted in a reduction of the "Mission Area." Nonetheless, the JLUS recommends preservation of the "Maximum Mission Area" through the next two to three years. Although the implementation of the JLUS recommendations has not yet been approved, the governing bodies of Wichita, Sedgwick County and Derby have formed a committee to determine which of the JLUS recommendations to implement.

Commercial Objective III.B encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP is in general conformance with the Comprehensive Plan **Strategy III.B.2** and **Commercial Locational Guidelines #3** and **#4** but conflicts with **#1** since the abutting streets are rated as urban collector (Clifton Avenue) and local (55th Street South). **Comprehensive Plan Transportation Strategy V.D2** states that we are to "prevent encroachment of incompatible development around airports" by minimizing high concentrations of people in takeoff/landing zones, utilizing noise reduction techniques and preventing hazards to air traffic.

RECOMMENDATION: The *Comprehensive Plan* did not anticipate commercial or residential use on this tract and designated it for employment center. The *Oaklawn/Sunview Neighborhood Revitalization Plan* honed that designation to warehousing and light manufacturing. Both policies were based on the need to preserve the maximum mission area in effect at time for McConnell Air Force Base. The McConnell AFB Joint Land Use Study (JLUS), completed in 2005, excluded this property from the current "Mission Area" but recommended protecting the "Maximum Mission Area" for the next few years in the event a larger mission were reestablished. The main concern for this area was noise mitigation rather than accident potential, and building techniques can be used to reduce the impact of noise levels. The governing bodies have formed an implementation committee to advise them on which, if any, JLUS recommendations to adopt.

Local commercial nodes are typically found at the crossroads of section line roads in the urbanizing area of Wichita. This pattern has been encouraged since 1958. This particular intersection is a crossroads, but the roads have been designated as lower on the transportation hierarchy because of the relatively short lengths and disconnectedness of the roads abutting the property. Consequently, the desired pattern would be local serving commercial developed in a compact node at the intersection with a relatively modest scale of commercial use, including grocery store, pharmacy, smaller scale independent retail, restaurants, but no big box types of uses. Additionally, one would not expect the need for all four corners necessarily to develop with commercial use.

The possible use of a portion of the site for medium density residential use would place an intervening use between the some of the retail site and the proposed single-family. It would provide a range of housing options in the vicinity to support other employment centers nearby.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2005-61) to "LC" Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-294), subject to the following conditions:
 1. Transportation: A guarantee for the construction of a third lane on Clifton Avenue shall be provided during the platting process.
 2. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 3. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 4. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
 5. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-294) includes special conditions for development on this property.
 6. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property currently is zoned "SF-20" and is in agricultural use. All the surrounding property is in agricultural use except the tract to the northeast, which is developed with the Pinaire Mobile Home Park (CU-96). Drainage is a major concern in the area. The proposed CUP is part of a larger overall development project. A single-family development is proposed for the north and east of the site, and multi-family residential use is proposed to the north of the proposed single-family subdivision.
2. The suitability of the subject property for the uses to which it has been restricted: The area is in agricultural use and could continue to be used in this manner. The current zoning would restrict development to low density residential, which would be a suitable alternative to the proposed commercial use.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval could spur additional requests for intensification of the land use in the vicinity. A potential detrimental effect to McConnell AFB would be if a future change in mission area creates noise impacts. Approval of the CUP and zone change prior to development of the surrounding areas will allow future developers to be aware of potential for commercial use on this tract. The CUP mitigates many impacts by limiting uses and providing buffers, screening, architectural controls, signage controls, etc. to reduce impact on future residential development in the vicinity.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "employment/industry center" use. The *Oaklawn/Sunview Neighborhood Revitalization Plan* recommends warehousing and light manufacturing uses for the subject property. These recommendations were based upon the 1994 Air Installation Compatible Use Zone (AICUZ) study for McConnell AFB. According to the McConnell AFB Joint Land Use Study (JLUS), completed in 2005, McConnell's mission changed in 2002. This change in mission resulted in a reduction of the "Mission Area." Nonetheless, the JLUS recommends preservation of the "Maximum Mission Area" through the next two to three years. Although the implementation of the JLUS recommendations has not yet been approved, the governing bodies of Wichita, Sedgwick County and Derby have formed a committee to determine which of the JLUS recommendations to implement.

Commercial Objective III.B encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP is in general conformance with the Comprehensive Plan **Strategy III.B.2** and **Commercial Locational Guidelines #3** and **#4** but conflicts with **#1** since the abutting streets are rated as urban collector (Clifton Avenue) and local (55th Street South). *Comprehensive Plan Transportation Strategy V.D2* states that we are to "prevent encroachment of incompatible development around airports" by minimizing high concentrations of people in takeoff/landing zones, utilizing noise reduction techniques and preventing hazards to air traffic.

5. Impact of the proposed development on community facilities: Traffic expected from this development would be a substantial increase over current traffic volumes. A rough estimate of traffic generated by the CUP would be approximately 10,000 trips per day (based on 250,000 square feet of gross floor area and with a trip generation rate of 40 vehicles per day per 1,000 gross floor area). This estimate was made without knowing the results of the traffic study evaluation that would be factoring in types of uses, multi-stop trips, drive-by stops, etc. The requested transportation improvement for a third lane on Clifton Avenue is to address this increase.

DONNA GOLTRY Planning staff presented report, indicating that Mr. Russell was now requesting to omit residential use from the CUP.

MCKAY Mr. Russell, are you saying (I am going to the Clifton Heights CUP) what you want approved is the area in Parcels 1-7, and the rest of that be put on hold?

JAY RUSSELL Yes, I would like them all approved, the way they were recommended to be approved, but excluding any residential uses.

MCKAY Is this Maywood Drive (pointing to the subdivision to the east and north of the subject tract) all the way around, is that the residential you are referring to?

RUSSELL No, that is Maywood, is the residential that is already platted.

SCHLEGEL That is not part of this application.

MCKAY So, of these 1-7 parcels, which ones are setup for residential?

RUSSELL There are some uses that are allowed in Parcel 6 and Parcel 7, I believe, that would allow some residential uses.

HILLMAN So, our goal is to remove everything to Light Commercial at this time?

RUSSELL Yes.

HENTZEN Donna, would you give us the language that you want us to use in a motion, regarding Parcel 6 & 7?

RUSSELL My only concern is that, if after all of the discussions have been had, that they make the decision that they are going to allow residential in all of this area, then I ought to be able to have residential uses in here also, which basically are going to be some type of multi-family uses. I guess it is true that we would like it worded to where you will approve it, subject to if that (referring to residential use) is the policy of the community at that time. I don't know if we can do it. My concern is that I really don't have to come back if the "powers that be" decide that it really isn't an issue--we are going to build residential in there. I really don't want to come back and do that. But if it is the policy not to have it, I am ok with that.

ALDRICH Mr. Russell, what you are saying right now is that there is no residential housing at all in any of those areas 1-7, correct?

RUSSELL In any of the zoning applications I am applying for today.

SCHLEGEL Parcel 7, the way the CUP was presented would allow multi-family.

GOLTRY Actually, I think all of the parcels allow residential use today as they are spelled out, it is just that Parcel 7 was very upfront about carving out an area for multi-family use in it by specifying its residential density as being "MF-18".

SCHLEGEL What Mr. Russell is asking us to do may be impossible to do with an action today, because we don't know what policy is going to be recommended by that group of local officials that is reviewing the JLUS recommendations. If we were to take action here today, I don't know how we would word it so that we could do what you just asked the MAPC to do.

RUSSELL I am ok to eliminate all the residential all together.

MOTION: To approve the whole block as light commercial (referring to the LC Limited Commercial district).

HILLMAN moved, **ALDRICH** seconded.

GOLTRY May I suggest to clarify that motion to add a condition that residential use shall be prohibited as one of the general provisions, because normally residential use is a permitted use with the Limited Commercial District.

AMENDED MOTION: To approve the Clifton Heights Commercial Community Plan per staff recommendations, with one exception to exclude any residential use.

HILLMAN moved, **ALDRICH** seconded.

MARNELL John, can we waive the fees if Mr. Russell comes back to apply once the policy is established, to add residential to this?

SCHLEGEL We have no authority to waive fees, he would have to make a request of the Governing Body to waive the fee.

DOWNING I'd like to thank Mr. Russell for taking an approach that I think will help sustain McConnell Air Force Base and the missions that might possibly be assigned there. I would hope that other contractors would follow his lead. I would also hope that, in the future, that the staff, when they prepare staff reports that are included in the maximum noise zone, will alert us to that fact and take into consideration what has been discussed here today.

MOTION carried 12-0.

10. **Case No.: DR2005-32** - Request Proposed Amendments to the Unified Zoning Code Pertaining to Manufactured Home Parks

Background: In 2002, the cities of Wichita and Haysville and Sedgwick County adopted the South Wichita-Haysville Area Plan. This plan addressed numerous community redevelopment and revitalization issues for several low-moderate income neighborhoods located in south Wichita and Haysville and in nearby unincorporated portions of Sedgwick County. The plan contained 59 recommended strategies to achieve positive long-term change, including recommendations to revise regulations for manufactured home parks.

Additionally, the State Legislature has passed legislation that pre-empts local licensing of manufacturing home installers; therefore, changes to the City's licensing code are needed to be consistent with State law. While revising the licensing code to eliminate this local requirement, methods are also being proposed to address a number of issues that have generated numerous citizen complaints regarding manufactured home parks, such as the failure to maintain a park in conformance with applicable codes, like screening.

In late 2005, under direction from the City Council members representing Districts III and IV, Planning staff reviewed the recommendations of the plan, considered citizen complaints, and drafted proposed revisions to manufactured home park regulations. The proposed revisions do not implement the recommendations of the plan in their entirety; rather, the proposed revisions attempt to provide reasonable regulations that address identified issues such as older, non-conforming parks that do not meet code; less than desirable setbacks and screening; insufficient drive widths; and an increased ability to enforce codes.

The proposed revisions were presented to the Advance Plans Committee on November 17, 2005. The Advance Plans Committee directed staff to present the proposed revisions manufactured home park operators for feedback. Staff met with manufactured home park operators on December 16, 2005, February 21, 2006, and March 1, 2006. The feedback of manufactured home park operators has been incorporated into the attached "Proposed Changes to Manufactured Home Park Regulations" (Attachment 1) and the attached delineated ordinances for the proposed amendments to the Unified Zoning Code (Attachments 2) and the proposed amendments to the licensing regulations (Attachment 3). Attachments 2 and 3 show the proposed manufactured home park regulation changes in detail.

In February and March, each District Advisory Board reviewed the proposed manufactured home park regulation changes. A report entitled "District Advisory Board Overview: Proposed Manufactured Home Park Zoning and Licensing Code Amendments" (Attachment 4) is attached and summarizes the feedback from the District Advisory Boards.

Recommended Action: Based on information available prior to the public hearing, staff recommends **approval** of the proposed changes to manufacture home park regulations. This recommendation is based on the following findings.

1. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon property owners: The proposed amendments are intended to further the health, safety and welfare of the community by

providing additional enforcement mechanisms for addressing violations of City code by manufactured home parks. These violations create housing conditions that are unsafe and generate numerous complaints from surrounding property owners due to the negative impacts of these violations on their property. Owners of manufactured home parks will be faced with the hardship of complying with additional regulations, but the gains to public health, safety and welfare out way this hardship.

2. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The South Wichita-Haysville Area Plan is an adopted element of the Comprehensive Plan, and it recommends significant changes to manufactured home park regulations. The proposed amendments do not implement the recommendations of that plan in their entirety, but are intended to provide reasonable regulations that address issues identified in the plan.
3. Opposition or support of neighborhood residents: The desires of residents in the South-Wichita Haysville area to improve the perception of their area, which they feel is negatively impacted by poorly maintained manufacture home parks, led to the recommendations of the South Wichita-Haysville Area Plan to amend manufactured home park regulations.

Supplemental Information: One of the proposed amendments to the manufactured home park regulations would require all manufactured home parks to comply with the current screening requirements of the zoning code, regardless of whether or not the park was required to provide screening at the time of initial development. The amendment is proposed to reduce the visual impact of manufactured home parks on surrounding lower-density housing areas, such as single-family housing.

Various screening standards have existed in the zoning code since 1974, and the current screening standard for manufactured home parks became effective August 29, 1997. The zoning code currently requires manufactured home parks to provide screening when the abutting property or the property across an alley is zoned "TF-3" or more restrictive. Screening is not currently required along street frontages (see proposed wall requirement along arterial and collector streets for future developments). Screening may be provided in the form of a solid screening fence, an evergreen hedge, landscaped earth berms, or a 15-foot deep landscape buffer.

Requiring all manufactured home parks to comply with the current screening requirement has received the most objections from the owners and operators of manufactured home parks. They indicate that the cost of complying with the new requirement is unaffordable, especially given the high vacancy rates in most parks. Additionally, they express concern regarding the fairness of requiring compliance with codes that were adopted after the development of their park, and the precedent it would set for the removal of other "grandfather" rights in the future.

To further the MAPC's understanding of the ramifications of the proposed amendment, planning staff reviewed how the proposed amendment would apply to the 28 largest manufactured home parks. Of those, 12 are not required to provide screening because they are adjacent to property that is in a less restrictive zoning district than "TF-3" and/or the property has street frontage. Two other manufactured home parks meet the screening requirement. The remaining 14 parks partially meet the screening requirement. Predominately, additional landscape materials would need to be planted in order to comply with the screening by landscape buffer option at these 14 parks. Additionally, some parks do not have the required 15-foot depth for the landscape buffer option, and would need to provide screening in some locations by another option. Overall, planning staff estimates that about half of the 14 parks that do not meet the current screening requirements would need to make significant investments in fencing or landscaping to comply with the requirement. The other half could comply with the current screening requirements through less significant investments in additional landscape materials and/or extensions/repairs of existing fences.

WARNER I've been contacted about these proposed amendments and those communications will not effect my decisions today.

MITCHELL Same with me.

KURT SCHROEDER Office of Central Inspection presenting report for Scott Knebel

PROPOSED CHANGES TO MANUFACTURED HOME PARK REGULATIONS

The South-Wichita Haysville Area Plan recommends a number of changes to manufactured home park regulations to address specific issues raised in that plan. Additionally, the State Legislature has passed legislation that pre-empts local licensing of manufacturing home installers; therefore, changes to the City's licensing code are needed to be consistent with State law. While revising the licensing code to eliminate this local requirement, methods are also being proposed to address a number of issues such as the failure to properly license a park or the failure to maintain a park in conformance with applicable codes, like screening.

The following changes would apply only to new or redeveloped manufactured home parks or to the new portions of existing manufactured home parks that expand onto currently undeveloped land.

SETBACKS

- Increases setback along arterial streets from 20 feet to 25 feet
- Increases setback from other exterior property lines from 10 feet to 20 feet

SCREENING

- Requires a 6' to 8' high masonry screening wall along all arterial and collector streets

PRIVATE DRIVE WIDTHS

- Increases width of private drives with no parking from 21 feet to 24 feet
- Increases width of private drives with parking on one side from 29 feet to 30 feet
- Increases width of private drives with parking on both sides from 35 feet to 42 feet

PARKING REQUIREMENTS

- Increases parking requirement from 2 spaces per lot to 2.5 spaces per lot
- Provides flexibility in the location of parking spaces so that common parking areas for RVs and boats count towards the parking requirement

The following changes would apply to both existing and new manufactured home parks.

LICENSING

- Licenses cannot be renewed if false information is provided, provisions of the licensing ordinance are violated, or a license has been revoked within the past 18 months – can be appealed to City Council
- City Council can revoke licenses after a public hearing if false information is provided or provisions of the licensing ordinance are violated – can be appealed to District Court
- Provides notification process for code violations of ordinance and doubles possible fines for violations
- Requires annual submittal of a site plan
- Adds a requirement to maintain a record of manufactured home owners in the park register
- License fee increases \$20 per year

SCREENING

- Requires screening in conformance with the existing (not proposed) screening regulations of the zoning code within 12 months of license renewal for parks with two more units

SHELTERS

- Requires the location of shelters to be marked within the park
- Requires shelters to be opened when a thunderstorm or tornado warning is issued

NON-CONFORMITY

- Loss of non-conforming rights for the entire park when park is not licensed for 24 months
- Loss of non-conforming rights for each space within parks with fewer than five spaces when a unit is not placed on the space for 12 months
- Loss of non-conforming rights for each space within a park that is not licensed annually

HENTZEN The first slide that you showed us, where that unit was very close to the street, suppose a car came by there and banged it up and maybe even set it on fire, would they be allowed to replace it?

SCHROEDER No, they wouldn't. That goes back to non-conforming rights.

HENTZEN If it was minor damage, not totally damaged, could they repair it?

SCHROEDER Yes.

HENTZEN Most of the new requirements are for new parks?

SCHROEDER Yes.

HENTZEN Then you went to the licensing list, but you didn't say that was for new parks, like it was for all parks.

SCHROEDER That's correct. All of the existing parks, whether they were built in the 1960's or 1980's, would have to bring their screening on their property lines, rear and side that abut single-family or duplex, to the current screening standard, which could be a wooden fence or a 15 foot buffer with some trees and evergreens planted in it, berms and things like that. I think Scott did give you an updated memo. He did go out and look at the 28 largest parks to get a feel for how many of those existing parks would not meet the screening standards on those property lines, and I think he came up with about 7 out of 28 parks that would have to do significant work to bring their park into compliance with the current screening standards. That would be something like a wooden fence or a landscape buffer.

HENTZEN Would the screening requirement be something like a zone change or a conditional use? In other words, is it a requirement that wasn't there before but now is there?

SCHROEDER There has been screening requirements in the Zoning Code since 1974, typically for limited commercial and office use next to residential zoning. That is where you get into that screening. For the manufactured home parks, there has been a side and rear lot line screening standard since 1997.

HENTZEN So, 7 of them are those that don't conform to the new screening requirements?

SCHROEDER He just looked at the 28 largest parks, and he said 1/2 of those comply today. Of 14 the remaining ones, 7 of those would not have to do a lot to get into compliance, and then 7 of those would have to go to significant expense to bring their lot lines up to the new screening.

HENTZEN Do you have authority to enforce that screening, today?

SCHROEDER No sir, not today. That is a new proposed requirement, and it would affect all existing parks.

TAPE CHANGE AND TAPE MALFUNCTION

SCHROEDER For a business that is out of compliance in this case, if they didn't license the first year, they are going to be notified of that, you need to license, you have to license, you can't operate a park without a valid license.

If they continue that year, for whatever reason, and do not comply even though we have taken all those steps, they would be notified prior to that second year period that you may possibly lose all your non-conforming use rights, and you have to get your license to operate this park. So now we have almost a year or two years in the process, we will be notifying them in writing of problems, of these issues along the way.

If they still don't for some reason, we could take them to our municipal court, and they would have due process there. If ultimately the judge would file an order that says, get your license, get things together, do what you are suppose to do here, they would probably have that opportunity by the judge to get that done. They also would have the opportunity to appeal the judge's order to District Court.

If it kept going, and now we got three years down the road, we are not going to turn off water, sewer or anything else. We are going to go to District Court and file an injunction to force the owner to take care of their business or start vacating the park.

DUNLAP That last part is what bothers me. All of the procedures do not pertain to a renter in an individual unit. They only pertain to the owner of the park, and at some point, what you get to is vacate the park. That means we are going to ask people to move. Is the City going to do that? I don't see the protection for the individual is what I am saying, and I understand the process for the owner, and agree with it.

SCHROEDER My point is that the manager, or the operator of the park, has some degree of responsibility during this four-year period.

DUNLAP Not if we don't bring it up to speed.

SCHROEDER The City does have authority in terms of substandard housing, places that are unsafe, to do the same basic process to force the owner of the property to vacate, to go through the process to legally vacate a property if it is not in compliance.

DUNLAP I guess I am looking for some notification of some individual renters.

SCHROEDER I think that would occur. I can't imagine getting to this point. Several people have asked this question, what are you going to do when you revoke this license, and it is two-three years down the road?

DUNLAP We get pressure on this park owner from two sides, but not if one side doesn't know anything is going on. I am looking for some kind of notification to the individual that is living there. Maybe that does not fit the ordinance at all and just a problem that I am having.

SCHROEDER Again, through that process, I think that is part of the things that the court will be telling the owner they have to do, and they will have to go through due process to do what they need if they have to vacate lots to get that taken care of.

HILLMAN You may have answered that question in the last sentence. We as a body do not have the authority to request the notification to the mobile home dweller, but the court would. So they are going to get notified to this process, but it will be well after the two years that they may need to be looking for another place to live, is that correct?

SCHROEDER That is correct. You certainly could recommend changes in the language of the proposed ordinance.

HILLMAN So we could actually as a body request a change in the Ordinance?

WARNER We could make a recommendation to the Governing Body.

HILLMAN We could make a recommendation that the residents of a mobile home park be individually notified by certified letter or whatever? If we put it in a situation where this business owner would be potentially losing residents if he didn't cooperate, then I think you would instill a higher level of cooperation, and if we have an ability to write that into this somehow that would help.

WARNER Yes, I'd say your close. Kurt, when you were talking a non-conforming small park of 3-4 spaces, and you mentioned that if one space was vacant for a year, they lose that space, is that correct?

SCHROEDER Yes, that is correct.

WARNER Are they suppose to notify your office? How do you know if that space is empty? If they park a unit there does the unit have to be occupied?

SCHROEDER Every year when they do annual licensing, there is a review of those parks.

WARNER A physical review?

SCHROEDER Yes, a physical review.

WARNER Does the unit have to be occupied? If I had 4 spaces there and 3 of them were occupied and I put a unit on space 4 that was not occupied is it empty or not?

SCHROEDER That's a good question. Maybe that should be clarified. I think if it could be occupied, had utilities, and was setup for occupancy, it is ready to rent. If it is just setting up on blocks not anywhere near able to be lived in, that would be different. That might be a good question for the Law Department.

WARNER If it was a unit that was ready to be rented, that space would not be vacant?

SCHROEDER Maybe it needs clarification.

MARNELL If you have a park owner that has a park that is 70% occupancy, and that park is grand-fathered as a legal non-conforming park, and a year later they are still 70% occupied, that 30% that wasn't occupied during that year, does it now have to comply with the new Ordinance and they are no longer grand-fathered under the non-conforming?

SCHROEDER No, the only parks that this proposal would affect are the very small parks, 4 units and less. That has been generated by complaints. These are ones that are in residential areas and have very old homes, typically.

DUNLAP We sometimes allow manufactured housing, what we sometimes refer to as mother-in-law houses, and they are less than four. They are always one. We allow it for sometime frame, but they are not licensed. How do those go away?

SCHROEDER I don't think we do that anymore, not in the City. I think they do in the County.

MITCHELL What's the problem with vacant space?

SCHROEDER The concern has been that these parks just continue to exist and exist and many of these very small parks that are very old are not well maintained. That is the complaint that you get. They are not screened. The units are very old, and a lot of times, they were licensed for 4 units, and they have been vacant for many years, and they have maybe 2 units on them or something like that.

MITCHELL So it is really the condition, and not the number of units, that is the problem?

SCHROEDER I think it is maybe a little bit of both in terms of them being right in the middle of single-family residential neighborhoods, in terms of density and things like that. If there is only 2 units on this park that was licensed for 4 units originally, 2 of those spaces have been unoccupied for several years, they are just saying you could lose your rights to start moving in new homes to fill those spaces.

MITCHELL What I am asking is why? If the two units that are there, and it is well maintained and the rest of the park is maintained, what difference does it make?

SCHROEDER I am trying to give you feedback based on the plan and the recommendations that were made to the plan, and I think that is a complaint that has been heard many times on these older small parks.

ANDERSON When was the last time that they tried to make some changes in terms of the regulations and development of these mobile home parks? How long ago was it that you tried to make changes to the Zoning Code?

SCHROEDER On which one?

ANDERSON Years ago?

SCHROEDER No, I think there were quite a few changes made to the Zoning Code regulations on manufactured home parks in 1997. There were significant changes made at that time. In the Title 26 probably the last significant changes were made in 1993 or 1994 regarding the storm shelter requirements.

ANDERSON 10 years ago?

SCHROEDER Correct, 10-12 years ago.

ANDERSON Sounds to me like it's time to make some changes.

HILLMAN You said the license fees hadn't been made for many years, and you were going to take them up another \$20. What will be the total license fee per occupant be after the raise?

SCHROEDER I think it will be \$40.00 per lot, and I think it goes up on a tier level so if you have a lot of lots in a park, it goes down a little bit, but it is like a 50-100% increase overall.

WARNER We're going to move on with this. This is a public hearing, so we will open up now for anybody that is in the audience that wants to speak on this item.

MARTHA SMITH, 3521 S.W. 5th, TOPEKA, KS 66606 I am the Executive Director for Kansas Manufactured Housing Association. This is a statewide trade association, and we represent all facets of the manufactured housing industry, including manufacturers, realtors, centers, community owners and operators, finance and insurance companies, etc.

I would like to comment on the green memo from staff. In paragraph two, line five; it says citizen complaints regarding manufactured home parks such as the failure to maintain a park in conformance with the applicable codes like screening. As Kurt mentioned, the screening ordinance went into affect in 1997. As we were given information from Scott, manufactured housing as well as many

forms of housing were grand-fathered, so if there were a complaint about not being in compliance with screening, if it was an existing park, it wouldn't have been required to be screened.

Our next clarification is on paragraph four. While we did meet with staff a couple of times, and we do appreciate their efforts to work with us, we do still have some major differences. As Kurt mentioned, the reason that you have these changes before you are based upon two documents: 1) State legislation, 2) the South Wichita-Haysville Area Plan. The State legislation was actually requested by Kansas Manufactured Housing Association, and the reason that we requested it was to bring Kansas into compliance with Federal law. The Federal law that I am referring to is the Manufacturing Housing Improvement Act of 2000. That Federal act required all states to have state licensing of manufactured home installers and have it into statute by December 27, 2005. Now if a state does not comply with that, then the Federal government does it for the state. So we asked for the introduction of the bill. We did work with the Kansas League of Municipalities, the Association of Counties, and Sedgwick County Code Enforcement. We asked Sedgwick County to work with us, because to our knowledge they had the largest manufactured home installation licensing program in the State. While we wanted to comply with Federal law, we wanted to leave as much of the local program, especially in Sedgwick County since their program was so detailed. We wanted to leave it in place. We continue to work with Sedgwick County on the implementation of that State licensing. The changes that this State Law required you will find it on Attachment 3, page 2 & 3 and page 12 & 13.

The second document as indicated was the South Wichita-Haysville Area Plan, and while we know a lot of time and energy went into that document, unfortunately there wasn't any representation from the manufactured housing industry on that committee. Kurt did mention that the recommendations were based on the beliefs of the committee members. They were not based on facts. They were not based on statistics. They weren't even based on Wichita-Sedgwick County housing needs assessment. In fact, the consultants that wrote the document did not necessarily agree with the recommended changes for manufactured housing. So, consequently, we do not feel like this plan is a sound basis to base a lot of changes on. Except for the four pages that I just gave you 2-3 and 12-13, the balance of the changes in both documents are based upon that South Wichita-Haysville Plan.

I would like to go over some of our objections. We have agreed with some of Kurt's and Scott's requirements or changes. Our first objection is on Attachment 3, Page 24. Line 5 states, "Mobile home parks with two or more spaces must be screened as required by the Unified Zoning Code, Title 28 of the Code of the City of Wichita." That language removes our grandfathering provision on the screening for existing manufactured home parks. That language will require all existing manufactured home parks to provide screening along the side and rear lot lines adjoining or across an alley from property zoned "TF-3" or more restrictive. Our question is why is manufactured housing is the only form of housing that is being singled out to lose their grand-fathered provision with respect to screening. These parks have gone through the approval process, and when the screening ordinance was passed, they were grandfathered in as others were. Now they are being singled out to meet current screening requirements.

I know that you don't have this document in front of you. In the UZC, Article 7, on page 217, deals with non-conformance. The policy is "It is the general policy of the City of Wichita and the County to allow uses, structures, or lots, that came into existence legally and in conformance with the applicable requirement but, that do not conform to all the applicable recommendations of the code to continue to exist and to be put to productive use." We feel like the policy being proposed is actually in contradiction to your existing policy for non-conformity. Not to mention we feel like it is a fairness issue and an expense issue. Manufactured housing is one of the few forms of unsubsidized affordable housing, and we are an excellent way for cities and counties to meet their affordable housing needs. However, the cost of some of these requirements would certainly negatively impact our residents and the families that live in them.

Our second objection is page 19 & 20, and it basically mirrors the same concern as what happens to our residents during the appeals process? Are the evicted? Can they move in or can they move out? Because on page 8, line 9, the park cannot be in existence without a license, so we are concerned about that process also.

We also have a concern with the doubling of our fine, which went from \$500 to \$1,000 for violations. While we not questioning whether a fine should be levied, we do find that is excessive. That is found on page 29 & 30.

Attachment 2, the UZC, Page 3, Section 7.1, the masonry wall, again manufactured housing is being the only one that is being required to provide this along any arterial or collector street. The cost of this proposal could be catastrophic, and it could be catastrophic for affordable housing in Wichita. This is a type of improvement that is more commonly found in high-end developments, where the owners have the resources to pay not only for the initial installation but also for the maintenance and the increased property tax that an improvement like this would generate. We also had community policeman at the DAB meetings that said they really had a problem with this. When they patrol neighborhoods, they want to be able to look through a neighborhood and see what is going on down the street. This wall would totally prohibit that. Part of the purpose of the wall is to prevent the passage light. Page 24, of attachment 3, actually requires us to have lights every 200 feet. The lights have to be of a certain amp, and it has to be 20 feet off the ground. So maybe we should look at scaling back some of the lighting requirements if that is a problem.

The last section that we have an objection to is on page 4, Item G, second paragraph, which states, "That non-conforming manufactured home parks within the City of Wichita with fewer than five manufactured homes space the failure to occupy any space for a period of 12 months shall constitute the abandonment of the non-conforming use." Again I refer you back to your own policy that says that it is not the policy of the City and County to take away productive property because of non-conformance. Again, we would ask for you to reconsider that.

In closing, we would ask that you would not give a favorable recommendation to the proposal before you because of the unfairness of the screening, on both existing manufactured home parks and new or expanded manufactured home parks; the doubling of the fine; the lack of clarity of what happens to our residents during the appeals process; and the loss of use of small parks due to vacancies which are out of their control. We feel the proposals are excessive and one form of housing is being singled out.

MITCHELL There is no way we can organize what you have just given us in any kind of a motion to take action today. Would you be willing, your association and the local owners, to go further into this study which you said you did not have full opportunity to review and possibly bring back more points of agreement than you obviously have today?

SMITH I think my membership would be willing to continue to work on it.

SCOTT VANDERHOOFMAN, 1820 S. 143rd East, Wichita, KS 67230 The biggest concern that I have is stuff that has already been grandfathered that is suddenly being taken back. What was the grandfather clause for in the first place? That would primarily be for existing parks that are out there and not the 3-4 unit parks. That seems to be a separate issue in itself, but good conforming parks that suddenly have to put up an excessive amount of money into screening. I am not discrediting any of the numbers of parks that would have the proper screening. There will be a lot of parks to put up more screening. Affordability is what the name of the game is. It is for our industry. It is for the City, and for the people that live in our community, and for the people who are buying our product. If my bills go up and I have to put a fence up and all my other associates spend that money, it is not spent by us it is spent by grandma and grandpa and the people that are living in our communities, that are many times lower incomes or have a hard time managing their incomes. Their rent is going to go up, and it will make it a more difficult for them. I would ask to be able to do what Martha asked and be able to work with you more so we can have everything come together in a more manageable situation, but what we are killing right now is affordable housing for the people in Wichita.

WARNER This issue was brought up by the groups that are doing the revitalization, right? Do any of your owners participate in that, or any chance to go to these meeting or participated within the group that is bringing this to us or initiated this?

VANDERHOOFMAN I don't think we were invited to any of those meetings.

WARNER Can you respond to that question?

SMITH That is correct. That is why we have objections with the South Wichita-Haysville Area Plan, because we did not have representation on that committee that developed that document.

GARY RUEDEBUSCH, 14 Scottsdale, Wichita, KS 67230 My park is down in the northeast corner and the southeast corner of Meridian and MacArthur Road. It is one of the larger parks, but I would say that it is one of the well-maintained parks. We don't really have any problems with the City as far as keeping our park up.

I was looking down this list and the setback requirements, the private parking requirements, the widening of the drives. I am one of the parks that are possibly going to be able to expand if the vacancies ever become better for me. Currently I have a high vacancy factor, as a lot of parks do right now, but if I want to enlarge this park, I am sure it would cost me over \$20,000 per space to build a new park. That is getting hard to make it affordable for these tenants out there. What really jumped out of me is that I would have to build a 6-foot concrete screening wall in front of my park, and I am sure with the length of that park, it would be a \$150,000 fence along the frontage there along MacArthur Road. That is only one side. The other side of the park on the northeast corner would cost me \$60-70,000 to go along there. We are trying to keep this housing affordable. We have to compete with apartments and lower-priced housing. A lot of people are buying housing now that they can afford it with interest rates low. I would say about 50% of my people are 55 years old or older, and maybe 15 % of them are on disability. A lot of them are on fixed incomes. I think we need to keep that in mind. I also looked at the screening ordinance, and I knew I was in trouble when it said the screening and lighting standards are intended to protect residential districts from adverse visual impacts associated with non-residential development. So they are really saying that mobile home parks are not a residential development, that they are something else. I disagree. By losing our grandfathering, we would have to come up to these standards, which would be quite expensive.

JIM SILER, 850 Lenoard N.E. GRAND RAPIDS MI 49503 I own Lakeview Community at 1101 MacArthur. Our park is licensed for 281 sites, and we have just over 200 residents in there right now. So when you talk about taking away grandfathering, I get very nervous. I have at least a mile of property line that abuts to residential housing. 5280 feet X \$50 a foot to build a concrete wall was about \$250,000 to \$300,000. I don't have the money in my pocket to pay that, and when I pass that down to my tenants, they will be very unhappy. There are 200 residents that are going to be in shock. I don't know where they are going to go or what they are going to do. These are often times fixed income people, and they certainly are not the wealthiest people in town. It feels like there is a vendetta by somebody or a committee that doesn't like manufactured housing. That seems to be wrong. These are people that live in the city, just like any other human being. They just don't have the money or live in a monstrous house, but they certainly don't deserve to be discriminated against, with something that will suddenly get passed onto them when they can no longer afford to live there. So when grandfathering comes into play here, it is a very scary thing, and it certainly is going to affect them. We talk about wanting to work and keep McConnell AFB here. I have residents that are in the military, and many work at McConnell. As an owner who has tax bills in Sedgwick County, I have never received one notice about any of these changes or ideas going on. It was word of mouth that came to me. I think there needs to be some communication in every community.

MARK SCHWANKER, 12000 FORD WIDE SUITE 248 DALLAS TX 75034 I work for a company called Affordable Residential Communities, and we are a very large owner and operator of manufacturing housing communities, parks. We currently have in the Sedgwick County area approximately 2,000 home sites, with 11 communities. Most of these communities we have acquired from 1998 to date. We sold a couple off a few years ago. We have spent millions of dollars and \$100,000 plus up-keeping them. A couple of the pictures that you showed with the storm shelters that we built in some cases cost over \$100,000 each. We made a huge financial commitment to the Wichita market. We currently pay in excess of \$450,000 worth of property taxes each year to Sedgwick County. We too have eroding occupancy rates for one reason or another. If you drive-thru any of our properties, I will tell you that you would find a well maintained, clean, uncluttered, tightly knit community.

When I read through the ordinances, we do have a few communities with vacant parcels, but as the ordinances are presented, it would basically render any dirt that I have had obsolete because frankly what I have read in the new development I couldn't develop anything under a five acre parcel, which I think is a way of saying you can do it but the ordinance is describing a methodology that frankly is not possible.

As far as the grandfathering thing. That scares me the most. I have communities that have 6,000 linear feet of perimeter. Frankly, a wooden fence or a vinyl fence of 6 feet height cost me \$30-\$35 a foot to build, but if are talking a masonry with a footing, you are talking in excess of \$100 a foot. If the real reason is to screen something that doesn't look right, then I would suggest a different

approach. Go after the community or the communities that don't look clean. I found out about this last Friday, and I basically do not agree with what is written in here. I would be happy to meet with anyone in your group to come to the middle ground.

SCHROEDER I do want to clarify to make sure that everyone understands on the non-conforming screening that is only where your property abuts single-family zoning or duplex zoning. and that is not a masonry wall. It could be the wooden fence or the vinyl fence or a landscape buffer with trees and shrubs.

MARNELL It appears to me that this was a case of not involving the industry. I think we should reject this and send it back to somebody besides a committee that is one neighborhood area of the City, and I don't know who that would be, and then eventually get it back to Advance Plans before it comes back here again.

MOTION: To defer these changes, and that this not be adopted by the Wichita City Council and go to further study that involves the industry in the process.

MARNELL moved, **ALDRICH** seconded.

MARNELL If this is the point where if we reject it, and it goes to the City anyway and they go ahead and ram it through, I guess in the discussion we can cover that. I want to see industry involvement in this process.

SCHLEGEL What I would suggest is that you not take action on it today, and you ask staff that has been involved in drafting this to sit down and have further discussions with the industry to see whether or not there are additional modifications that can be made to what is being proposed.

MARNELL I withdraw my motion.

AMENDED MOTION: Not to take action today ask staff that has been involved in drafting this to sit down and have further discussions with the industry to see whether or not there are additional modifications that can be made to what is being proposed.

MARNELL moved,

ALDRICH Is there a time limit on that, like a two-week time period?

SCHLEGEL I think that's a reasonable recommendation to make, and I know there are City Council Members that want to get on with this, and they are getting a great deal of pressure from their constituents to do something about this issue of manufactured housing. It has been through a lot of review already. It has been to all the DABs. There has been discussion with the industry. You have heard from the industry today. What you have not heard is all the other people that are weighing in on this and saying to the City Council members that they have concerns with manufactured home parks. However, if you were to ask staff to continue to work with the industry on this, I don't think the City Council will try to push it through over that recommendation.

SUBSTITUTE MOTION: I would like to make a motion that we defer this with instruction to the staff to work with the industry people and sit down at a table and kind of work out the differences and bring it back to the Advance Plans Committee

MCKAY moved, **MARNELL** seconded.

HILLMAN I totally support the motion, but I think that we are leaving something out. Because of Federal law that passed in 2000, which actually required trained certified inspectors to be in effect by December 2005, I think there has been a lack of inspectors.

HENTZEN It was installers.

HILLMAN Right, certified installers, and I think we need to make sure that when we get representatives and people involved in this we look at the Federal law carefully, and the inspections and stuff like that. I see a lot of problems on the City side and lack of inspection and enforcement throughout this area, and I think that we as the City are not doing our job and allowed some of these things and some of the acute problems to create themselves through a lack of enforcement, particularly on the south side of town. I see a need to have a more efficient and more inspectors, and not just on mobile homes but on all the businesses located in the South Central Neighborhood.

SHERMAN I would like to address specifically where are we sending this back? On page 104 of this draft, on July 7, 2005, are we talking about sending this back to the South Central Improvement Alliance and the South Central Progressive Neighborhood Association?

WARNER I think we are sending this back to the Planning Department.

SHERMAN When you say it is going back, I would like to know where you are sending it.

SCHLEGEL I interpreted the motion that the OCI staff and Planning staff will talk to the Manufacturing Housing Association and see if there are additional areas where we could come to common ground.

SHERMAN But I think part of their concern was this process has been going on and were not even notified in the very beginning that the neighborhood and these alliances were saying there are problems?

SCHLEGEL The complaint as I understand it is when the South Wichita-Haysville Plan was put together, they were not specifically notified.

SHERMAN My question is, just going back to staff is that really going to correct the problem?

SCHLEGEL I don't know. We are not going to go back and change this plan. It was adopted, and it is now part of the Comprehensive Plan.

TAPE 3 SIDE B

CHRISTY ASKEW The South Central Neighborhood Plan is a different plan then the South Wichita-Haysville Area Plan. Those are two separate things.

SHERMAN What I am hearing is that these manufactured homes are everywhere.

ASKEW They are everywhere. There is quite a large concentration in that South Wichita-Haysville area, and that it why it was identified in the Plan.

SHERMAN I am not verbalizing what I am asking very clearly. I heard several concerns, one that this had gone on, and they did not know this Plan was coming forth and they were never involved in this process.

ASKEW The plan we are referring the South Wichita-Haysville Plan was adopted in 2000. In that process, like we do with all the other neighborhood plans, there is quite an extensive planning process with the neighborhoods and businesses that are interested in participating. Those meetings are open to the public to attend.

JOHNSON The other thing is that there has been some work from a number of groups, and Mitch had mentioned maybe an association getting with the Planning Department, which would be a great deal. I think the other thing that would work real well is that all the owners here that have an individual park or parks, if someone could sit down with them and just see how they really are affected. Sometimes reading it scares you, but sometimes once you review it to your application, it may not be as near as serious. So I would like both sides to keep an open mind about it and look at it and help us make a good decision on this.

MITCHELL Reading the summary from the DAB meetings, almost every one of them had the same questions that were raised today, about flaws in the report and the recommendations.

SCHLEGEL I wasn't suggesting that. I am just saying that it has gone through quite an extensive review process.

MITCHELL I know but they had a lot of the same questions.

HENTZEN They are appointed by the City Council members that are concerned about it.

CLARIFY MOTION: Defer, ask staff to meet with industry and then come back to Advanced Plans.

DOWNING I have a quick question. The lady who spoke to us first from the Manufacturing Housing Association. If you were asked, would you be the focal point for the industry in working with whoever is going to work this problem?

SMITH Absolutely.

Motion carried 12-0.

11. Case No.: DR2005-18 - Request South Central Neighborhood Plan

Background: The South Central Neighborhood is bound by Kellogg on the north, the Arkansas River on the south and west, and Washington and the railroad tracks from Pawnee to the Arkansas River on the east. In 1995, a plan for the South Central Neighborhood entitled *A Revitalization Plan for the South Central District* was prepared but was never formally adopted. Although the 1995 Plan was never formally adopted, leaders in the South Central Neighborhood remain committed to many of the strategies contained in the plan.

Community leaders of the South Central Improvement Alliance and the South Central Progressive Neighborhood Association worked with City staff in 2000, and their work resulted in the collection of significant data, which community leaders used to develop updated strategies. In 2005, community leaders presented these recommendations to the City and requested that the 1995 Plan be revisited and updated. As a result, a South Central Neighborhood Plan Steering Committee was formed to oversee the planning process to update the 1995 Plan.

Nine Steering Committee meetings and four neighborhood association meetings have been held to review and update the Plan. The South Central Neighborhood Committee feels that they have developed an updated draft Plan that has broad-based neighborhood support, support from the neighborhood associations, and support from City officials. The draft *South Central Neighborhood Plan* presented to the MAPC outlines formal policy, which is proposed to be adopted as an element of the comprehensive plan in order to guide long-term redevelopment and revitalization efforts in the South Central Neighborhood.

The draft Plan has been reviewed and endorsed by the Advanced Plans Committee, and was endorsed by DAB III on March 1, 2006, and DAB I on March 6, 2006.

Analysis: The draft *South Central Neighborhood Plan* outlines the community's vision of what the South Central neighborhood will be like in 2030. This vision is based upon an assessment of the neighborhood's top issues and the changes desired to address those issues. The following goals are identified to accomplish this vision:

1. Strengthen citizen involvement
2. Improve the visual appearance of the neighborhood
3. Improve neighborhood safety
4. Improve neighborhood infrastructure
5. Promote the unique character and historical significance of the neighborhood
6. Increase homeownership
7. Improve existing housing stock
8. Preserve the character of residential areas
9. Promote economic opportunities
10. Reduce the negative impact of incompatible businesses
11. Increase education and employment opportunities for residents
12. Increase recreational opportunities
13. Promote the river as a community destination
14. Increase use of existing neighborhood facilities

A total of 36 implementation initiatives are identified in the Plan. The implementation initiatives detail the specific objectives and strategies to achieve the Plan's goals. Key initiatives that are important to the overall success of the neighborhood are identified. Each initiative is identified as short-term, mid-term and long-term, which estimates when the initiative should be started. Each initiative is assigned a lead organization that will be responsible for coordinating and ensuring its implementation. A summary of the implementation initiatives is on page 38 of the Plan.

Adopting the *South Central Neighborhood Plan* involves no commitment of funding; however, the Plan identifies improvements needed in the neighborhood (e.g., lighting, sidewalks, parks, code enforcement, etc.) that, if implemented, could total several million dollars in expenditures. These improvements could potentially be funded from several sources, including federal grants and City funds.

Recommended Action: That the MAPC indicate support for the draft *South Central Neighborhood Plan* dated March 16, 2006 and schedule a public hearing on April 20, 2006, pursuant to State Statute to receive formal public comment and consider adoption of the Plan as an amendment to the *Wichita-Sedgwick County Comprehensive Plan*.

Attachments:

Draft of the *South Central Neighborhood Plan* dated March 16, 2006.
Draft of the *South Central Neighborhood Plan Summary Report* dated March 16, 2006.

CHRISTY ASKEW Planning staff presented a report.

ALDRICH In reviewing this document you don't have a total cost on this?

ASKEW Some of the initiatives could be funded through city funds, but a large portion of the initiatives will probably be funded through other sources, such as CDBG, non-profit organizations, and other grant funding sources. For instance, sidewalk improvements could potentially be funded through CDBG funding, and drainage improvements will be made at the time that street improvements are made as scheduled through the CIP. Several initiatives throughout this Plan require additional planning before specific projects and project costs are identified, but as we were able, the Plan identifies costs associated with specific initiatives. For example, the average cost of sidewalk improvements was identified. Based on the public input we received towards the end of the Steering Committee's planning process, additional projects, such as street widening and/or creating turn lanes at major intersections were incorporated into the Plan that, if implemented, could cost over \$1 million.

ALDRICH It does not say that in this report. I know when the McAdams Plan was presented; they did not have funding sources identified or an estimated cost. We deferred it until that occurred.

ASKEW A lot of these initiatives will require further planning and further studies before we get to a point where we are bringing a project forward to actually implement.

DUNLAP On page 18, the list of employers, BG Products probably will not be there.

WARNER I'd like to make one comment. I would like to go back to the housing part. All of these neighborhood plans that come before us, seem like they are all concerned with keeping the consistency of the architecture and character of the neighborhood, which I think is very good. This even talks about new home construction practices to preserve. It looks to me like if you want to get a new area or in a area and you don't know where you are going, the first thing that you don't do is setup architectural requirements, and building requirements that people have to do to come in and build a new home to look like a 75-year old home in an area. It looks to me like you would want to do something that is marketable to get people to come to your area, and I think this does just the opposite.

HENTZEN John, we have sat here the last 3-4 years, and we have approved a number of neighborhood programs that are wishful thinking honestly, because the resources are not available and won't be available. This young lady did an excellent job in saying we are going to try and get some grants, but how many of these have we approved across this City?

SCHLEGEL There is quite a few neighborhood plans.

HENTZEN How many more plans are in the process?

SCHLEGEL I don't think we have any others in the works--possibly one.

ASKEW Possibly an El Pueblo Neighborhood Association Plan.

SCHLEGEL They are currently working on that Plan on their own, and then we will probably come in at the end and help them.

HENTZEN Of course the recommendations are all the same on almost all of them.

SCHLEGEL I wouldn't agree with that, but there are a lot of similarities.

HENTZEN What I want you to think about is how is this community going to pay for these plans?

SCHLEGEL If you are saying don't do any planning unless you know how you are going to pay for everything, we might as well shutdown. The purpose of doing these plans is that they start to give direction to neighborhoods, and they bring stakeholders together. It is not always just the city paying for things. A lot of the time, these plans galvanize groups within those neighborhoods to get things going on their own. We are seeing positive results. There are non-profits and private dollars that start to be invested in these areas as a result of doing these plans, because they feel then that they have something to base that expenditure of funds on.

ASKEW I'd like to say one thing. We have Vicki Adamson and Dale Churchman here, and they are in the process of developing a non-profit organization right now that will help with a lot of these projects. I would like to commend them, as well as, Hoyt Hillman for their hard work throughout this process.

HENTZEN Looking at the map that apparently somebody dreamed up, we are going to have a fight about eminent domain about what needs to happen or what you want to happen.

SCHLEGEL That is a map that came out of working with the stakeholders in that neighborhood. That is what they are telling us they would like to see. The City is not going to come in and buy-up all of these properties.

HILLMAN Commissioner Hentzen, what we are looking at is that we have a number of businessmen in the area that have left, and a number that are trying to figure out what they are going to do and whether they are going to expand or close the facility or move down the street or whatever. The very process that we went through caused them to reinvest in the facilities or look to expand in this area, because there is hope of continuing business. There have been a lot of restaurants and movies close in the area, and now they are reconsidering opening up.

MOTION: Schedule a public hearing on April 20, 2006, pursuant to State Statute to receive formal public comment and consider adoption of the Plan as an amendment to the Wichita-Sedgwick County Comprehensive Plan.

DUNLAP moved, **JOHNSON** seconded.

MITCHELL As long as half the initiatives that are shown in the report require government expenditure without any estimates at all, I will not support the plan.

MOTION carried 10-2. (MITCHELL & HENTZEN opposed)

The Metropolitan Area Planning Department informally adjourned at 5:40 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2006.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)

